

(Hon. Mr. Gisborne.)

Gold Fields.

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A BILL INTITULED

Title.

AN ACT to consolidate and amend the Laws relating to Gold Fields.

Preamble.

WHEREAS it is desirable that the Laws relating to the Gold Fields should be consolidated and amended:

BE IT THEREFORE ENACTED by the Queen's most Excellent Majesty by and with the advice and consent of the General Assembly of New Zealand in Parliament assembled and by the authority of the

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same as follows:—

Short Title.

1. The Short Title of this Act shall be "The Gold Fields Act 1871."

Interpretation.

2. In the construction and for the purposes of this Act the following terms shall have the respective meanings hereby assigned to them if such meanings be not inconsistent with the context or subject-matter thereof that is to say—

The verb "mine" shall be understood to include any mode or method of working whatsoever whereby the soil or earth or any rock or stone may be disturbed removed carted carried washed sifted smelted refined crushed or otherwise dealt with for the purpose of obtaining gold whether the same may have been previously disturbed or not.

The word "gold" shall signify as well any gold as any earth clay quartz stone mineral or other substance containing gold or having gold mixed therein or set apart for the purpose of extracting gold therefrom.

The words "Gold Field" shall mean such portions of land within the Colony which now are or which hereafter shall be proclaimed to be Gold Fields as hereinafter provided.

The word "claim" shall mean the portion of land which each person or party shall be entitled to occupy or to occupy and mine in under any miner's right business or other license or lease issued or to be issued under the provisions of this Act or any previous Act relating to Gold Fields.

The words "holder of a miner's right" or "holder of a business license" shall mean the person in whose favour the same respectively shall have been issued his executors administrators or assigns.

- 5 The word "person" shall mean person or persons body corporate or company registered under any Act of the General Assembly.
- 5 The word "business" shall mean and include any vending or disposing of any goods merchandise or chattels whether by hawking or in any other manner.
- 10 The words "Crown lands" shall be held taken and construed to mean and include not only the demesne lands of the Crown in New Zealand but also any other land whatever over which the Governor shall by lease agreement or otherwise have obtained power to authorize gold mining thereon.
- 15 The expression "the Commissioner" shall mean any Commissioner of Crown Lands.
- 15 The words "private lands" shall mean and include all lands within a Gold Field held in fee-simple or under agricultural lease.
- 20 The words "water race" shall be understood to include any artificial channel or ditch or tail race for the conveyance of water constructed through or of any material whatsoever and also the natural bed of any creek or gully through which water is diverted for mining purposes.
- 25 The words "dam" and "reservoir" shall mean any natural as well as any artificial depository of water.
- 25 The words "sluice head" shall be held and deemed to be forty superficial inches of flowing water with a velocity equal to a discharge of four hundred gallons of water per minute.
- 30 The word "run" shall mean any portion of Crown lands which at the date of the passing of this Act shall have been occupied by virtue of a lease or license for depasturing purposes and defined as a separate run on the maps of the Waste Land Board of the Province wherein such portion of land shall be situate.
- 35 The word "Proclamation" shall mean and include as well any Proclamation in any Provincial *Gazette* as in the *New Zealand Gazette*.
- The singular number shall include the plural number and the masculine gender shall also include the feminine gender.

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PART I.

OCCUPATION OF GOLD FIELDS.

3. It shall be lawful for the Governor from time to time by Proclamation to constitute and appoint any portion of the Colony to be a Gold Field under the provisions of this Act and the limits of such Gold
 45 Field from time to time to alter as occasion may require and also if he shall see fit to revoke the Proclamation by which such Gold Field shall have been constituted: And whenever any district shall have been proclaimed a Gold Field the same shall be subject to the provisions

Governor may proclaim Gold Fields.

of this Act but private lands shall be exempt from the operation of this Act except where especial provision to the contrary is made herein.

(1.) *Miner's Right.*

4. It shall be lawful for the Governor in Council to cause documents to be issued each of which shall be called a "Miner's Right" and which shall be in force for any number of years not exceeding fifteen and any such document shall be granted to any person applying for the same upon payment of a sum at the rate of one pound for every year for which the same is to be in force. It shall also be lawful for the Governor in Council to cause other documents to be issued each to be called a "Consolidated Miner's Right" and to be in force for any number of years not exceeding fifteen and any such last-mentioned document shall on the application of the manager or any trustee or trustees of any company of persons who shall have agreed to work in partnership any claim or claims registered under the provisions hereof be granted to such manager trustee or trustees on behalf of the persons who shall from time to time be members of such company and shall during its continuance be held by the manager or the trustee or trustees for the time being of such company on behalf of such last-mentioned persons and shall be in lieu of and represent and be of the same force and effect as a number of miners' rights granted for the same period of time equal to the number of the miners' rights by virtue of which the said claim or claims shall have originally been taken possession of and the same shall be granted to any person aforesaid so applying on payment of a sum at the rate aforesaid multiplied by the number of miners' rights which the same is to represent and every such document shall be dated of the day and at the place of the issuing thereof and shall state the number of years for which it is to be in force and contain the Christian or first name and surname and the residence of (in case of a miner's right) the person in whose favour the same shall be issued and (in case of a consolidated miner's right) the manager or trustee or trustees to whom and the name of the company whose behalf the same shall be issued and every such miner's right shall be in the form in the First Part of the First Schedule to this Act and every such consolidated miner's right shall be in the form in the second part of the said Schedule: Provided that the term "miner's right" where it occurs throughout this Act shall unless inconsistent with the context be taken to mean and include a consolidated miner's right. Provided also that when any such consolidated miner's right shall be granted the miners' rights of the persons in whose behalf the same shall be granted shall be retained by them and such persons shall be respectively deemed holders of miners' rights within the meaning of this Act during the continuance of such consolidated right.

5. Any person who shall be the holder and any number of persons in conjunction who shall each be the holder of any such miner's right shall subject to the provisions of this Statute and to the regulations to be made as hereinafter mentioned be entitled (except as against Her Majesty) to take possession for gold-mining purposes of a parcel or of so many parcels as such regulations shall permit of Crown land in such manner of such quantity and dimensions and with such boundaries as shall be directed by such regulations such dimensions and boundaries to be fixed at the time of the taking of such possession or partially then and partially at some subsequent time according as shall be by such regulations directed and every such parcel to be from time to time subject to such adjustment as to quantity dimensions boundaries and form as shall be prescribed by such regulations and any such person or persons who shall have so taken possession of any such parcel or parcels shall either by himself or themselves or in conjunction with the holder or holders of any share or shares to be created in such parcel or parcels

Miner's right to issue.

First Schedule.

Privileges conferred by miner's right.

as hereinafter permitted be during the continuance of such miner's right or miners' rights or of a consolidated miner's right granted in lieu of any miners' rights entitled to occupy for gold-mining purposes such parcel or parcels and every holder of a miner's right and every

5 person on whose behalf any consolidated miner's right shall be granted shall subject as aforesaid and during such continuance be entitled (but subject to any right which may be obtained by any person under any license granted by the Governor for the cutting construction and using of races tail-races drains dams or reservoirs

10 for gold-mining purposes) to cut construct and use races dams and reservoirs for mining purposes through and upon any Crown lands and to take or divert water from any spring lake pool or stream situate or flowing through or adjoining Crown lands and to use such water for mining for gold and for his own domestic purposes and

15 to use by way of an easement any unoccupied Crown lands and every holder of a miner's right shall during the continuance thereof and subject as aforesaid be entitled to occupy on any gold field for the purpose of residence so much of the Crown lands as shall be prescribed by such regulations and every such holder and every person

20 on whose behalf any consolidated miner's right shall be held shall be entitled for the purposes of the privileges hereby given to them respectively to put up and at any time to remove any building or other erection and also to cut any live or dead timber and to remove the same and to strip and remove the bark from any such

25 timber and also to remove any stone or gravel for mining purposes and (in the case of the holder of a miner's right) for building for himself any place of residence or of business or for mining purposes or for fuel or otherwise for his personal use from any Crown lands not exempted nor excepted from occupation for mining under any Act

30 relating to the Gold Fields nor declared under any Act relating to the Crown lands to be either temporarily or permanently reserved from sale nor being or included in any land named in any Proclamation of the Governor in Council declaring that no person shall cut or remove such timber bark stone or gravel from any portion of Crown land

35 named in such Proclamation nor being or included in any land proclaimed as a reserve for the preservation and growth of timber and also to make tramways or other roads for the carrying out and in aid of such purposes and the person or persons by whom such parcel or parcels of land or any land occupied for residence as aforesaid shall be

40 so occupied shall subject as aforesaid and during such continuance as aforesaid be deemed in law to be possessed (except as against Her Majesty only) of such parcel or parcels or of such land and the property therein and of every share or interest which may be created therein as hereinafter mentioned shall be deemed a chattel interest and

45 during such continuance as aforesaid all gold then being in and upon any such parcel shall (except as against Her Majesty) be the absolute property of the person or persons for the time being in the lawful occupation of such parcel and every such parcel or any number of such parcels amalgamated by their owners shall be called a claim:

50 Provided that no person shall be entitled by this Act or under any such regulations to occupy for the purpose of residence more than one piece of land the same not to exceed one quarter of an acre in extent and to be situated with respect to any street or otherwise as shall be provided for by the said regulations and the holder of any such piece

55 of land may assign and encumber the same in such manner and subject to such regulations as to registry as such regulations shall direct and in default of such direction either orally or by any instrument in writing: Provided that no person shall obtain any interest under any such assignment save a person who shall be the holder of a miner's right.

Claims may be registered.

6. The person or persons or any of them who shall have taken possession or be in the occupation of any such claim or the executors or administrators or the assignee or assignees in insolvency or the guardian in infancy or the committee or guardian in lunacy or the purchaser under an execution of the interest of such person or of any 5
of such persons may in such manner as such regulations shall direct register such claim by some name and the owner of any share as hereinafter mentioned in a registered claim may register such share in such manner as such regulations shall prescribe: Provided that no claim shall be registered unless the miner's right or miners' rights under 10
which such claim shall be held shall be produced to the officer required to register the same.

Privileges of registered claimholders.

7. After a claim shall be registered as aforesaid but not before the owner or owners thereof for the time being may subject to the said regulations from time to time divide the interest in such claim into such 15
and so many shares as he or they shall think proper and any of which may be appropriated to any person or persons and may assign or encumber or create any interests in such claim and the owner or owners for the time being of any such share may if the same shall be registered subject as aforesaid assign or encumber or create any interest 20
in such share and in both cases (that is to say in regard to both claims and shares) in such manner and subject to such registration as such by-laws shall direct and until and in default of such direction either orally or by any instrument in writing: Provided that the miner's right or miners' rights under which any claim shall be held may be 25
transferred to or to any person on behalf of the assignee or assignees of any such claim and the officer appointed to register claims shall upon being so required indorse the name of the transferee upon the right or rights so transferred and thereupon the same shall for the remaining period of its currency vest in the transferee thereof as fully 30
as if he had been the original grantee thereof but subject to any trusts or provisions agreed upon on the occasion of such transfer: Provided also that notwithstanding anything herein contained it shall be lawful for the owners of any two or more adjoining claims to amalgamate the same whether the same be registered at the time of such amalgamation 35
or not.

Necessary number of miners' rights or a consolidated right sufficient.

8. Provided that if there be held from time to time by or on behalf of the owner or owners for the time being of a registered claim such number of miners' rights as would have authorized the taking possession thereof when the same was taken possession of or a 40
consolidated miner's right representing such number the same shall be sufficient and it shall not be necessary that any other miner's right should be held by any shareholder in such claim as such shareholder: Provided also that the word "owner" in this and the two next preceding sections shall be taken to include any such guardian or 45
committee as aforesaid.

(2.) *Business License.*

Business license to issue.

9. It shall be lawful for the Governor to cause documents to be issued each of which shall be called a "Business License" and which 50
shall be granted to any person applying for the same upon payment of the sums hereinafter mentioned (that is to say) if such person shall apply for a license for six months two pounds ten shillings or if for twelve months five pounds and every such document shall be in the form in the Second Schedule to this Act and shall be dated of the day 55
and at the place of the issuing thereof and shall be in force for such of the said periods as shall be named therein and shall contain the Christian name and surname and the occupation and residence of the person in whose favour the same shall be issued.

Second Schedule.

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10. Every business license shall subject to the provisions of this Act and to such by-laws as aforesaid entitle the holder thereof during the continuance of such license to occupy on any Gold Field for the purpose of residence and carrying on his business so much of the
 5 Crown lands not exceeding one quarter of an acre in extent as may be prescribed by the said regulations and for either of the purposes aforesaid to put up any building or other erection and at any time to remove the same and every such holder shall during the continuance of such business license be deemed in law to be possessed (except as against
 10 Her Majesty) of the land which he shall occupy by virtue of such license and the property in such land shall be deemed a chattel interest and no person shall be entitled by virtue of a business license to occupy more than one such portion of land.

Occupation under business licenses.

11. The holder of any such business license or of any such
 15 business license as next hereinafter mentioned shall be entitled to transfer the same respectively to any other person and provided he shall express his desire so to do in writing under his hand indorsed on the said license and signed by him in the presence of and attested by any Warden or Justice another business license shall be granted to the
 20 person named in such indorsement upon production and surrender of such license and indorsement and upon payment of the sum of ten shillings and every such last-mentioned business license shall be dated of the day and at the place of the issuing thereof and shall be in force for the then unexpired period of the license first indorsed as aforesaid
 25 the day when such unexpired period is to end being stated in every such indorsement and shall contain the Christian name and surname and the occupation and residence of the person in whose favour the same shall be issued and every such business license together with the right and interest thereunder shall on the death or insolvency of the
 30 holder thereof devolve on his personal representative or assignee in insolvency.

Business license may be transferred.

(3.) *Miner's Right and Business License—Miscellaneous.*

12. If any person who shall have been the holder of a miner's
 35 right consolidated miner's right or business license shall not on or before the day of the expiration thereof have taken out a new right or license as the case may be a new right or license dated of the day of such expiration and which shall have the same force and efficacy as if it had been issued on that day may nevertheless within one month
 40 from such expiration be granted to such person upon production of such expired right or license every new miner's right consolidated miner's right or business license so issued shall be in such one of the forms in the First and Second Schedules to this Act as shall be applicable.

Miner's right and business license may be ante-dated in certain cases.

13. Notwithstanding the provisions hereinbefore contained all
 45 Crown lands which shall have been applied to any public use or purpose or which shall be lawfully and *boná fide* used as a yard garden cultivated field or orchard or upon which any house outhouse shed or other building provided the same shall be in actual use and occupation
 50 or any artificial dam or reservoir shall be lawfully standing shall be and the same are hereby exempted from occupation for mining purposes and for residence or business under any miner's right or business license: Provided that any Crown lands which shall have
 55 been so lawfully and *boná fide* used as aforesaid or upon which any house outhouse shed or building or any artificial dam or reservoir shall be standing shall upon payment of compensation to be ascertained and paid in the manner prescribed by any by-law made by a Mining Board cease to be exempted from occupation for mining purposes.

Certain lands exempted.

14. The Governor in Council may at any time either by a general
 60 or particular description except from occupation for mining purposes

Other lands may be excepted.

or for residence or business under any miner's right or business license any specific portion of Crown lands or any class of Crown lands and no land so excepted or included in any class so excepted shall be occupied under any miner's right or business license until such exception shall be revoked.

Occupation of exempted or excepted lands may be allowed.

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15. No person shall cut or remove from any lands so exempted or excepted as aforesaid any live timber or earth or mine or employ any other person to mine in or upon or unless authorized thereto by a license granted under this Act cut or construct any race or dam or any tramway through over or upon such lands or do in or upon such lands any of the other acts or things or exercise any of the privileges hereinbefore allowed and granted to the holder of a miner's right. Nevertheless it shall be lawful for the Governor in Council upon application to him for that purpose to authorize any one or more than one holder of a miner's right or the holders generally of miners' rights to occupy under the same any Crown lands which may have been so excepted as aforesaid and also to construct drives under any lands so exempted as aforesaid if it shall be made to appear to the satisfaction of such Governor that such drives can be constructed without injury to or obstruction to the enjoyment of such exempted lands and such occupation and construction of drives shall be subject to such conditions restrictions and regulations as the Governor in Council shall impose and make and so far as shall not be inconsistent therewith to such by-laws as aforesaid: Provided that where such lands are within any borough notice of such application shall one month before the same shall be made be given to the Mayor of such borough and published in some newspaper circulating in the neighbourhood of such lands.

Claims under public roads.

16. It shall be lawful for the holder of a miner's right or of a lease under this Act to mine upon or under any street road or highway on obtaining from the body which shall have the care and management thereof an order permitting him so to do and for the purpose of obtaining such order such holder shall apply therefor by notice in writing to such body who shall thereupon decide whether the same can be effected without injury to adjoining property or injury or obstruction to such public road street or highway as the case may be and thereupon the same body shall issue its order permitting on such conditions and terms and subject to such restrictions as it shall think fit or forbidding such mining as the case may require.

Managers of public roads may allow sluice-boxes tramways and culverts under public roads.

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17. It shall be lawful for the body having the care and management of any public road street or highway upon application thereto by any holder of a miner's right or of a lease under this Act and upon the report of any engineer or surveyor that a sluice-box tramway or culvert can be laid or constructed on or under any such public road street or highway without any substantial injury to or obstruction of the traffic thereon and that such sluice-box tramway or culvert is necessary for the due and proper working of any mine or for the conveyance of water for mining purposes by order in writing made after inspection by some officer of such Board or body of the road street or highway mentioned in such report subject to the rights of occupiers of adjoining or contiguous lands to allow such sluice-box tramway or culvert to be laid or constructed by any holder of a miner's right or of a lease under this Act for the purpose of conveying any water tailings sludge or waste water or earth: Provided that such works shall be so constructed as not to substantially injure such road street or highway or obstruct the traffic thereon and if after the construction of any such sluice-box tramway or culvert under such order it shall be made to appear to such body that the same doth so injure such road street or highway or obstruct the traffic thereon it shall be lawful for such

body to order that the obstruction be removed and if after seven days from the date of such last-mentioned order the obstruction caused by such sluice-box tramway or culvert shall not be removed or remedied the same shall be deemed a nuisance and the person who shall have obtained the said first-mentioned order or the owner or occupier shall be liable to a penalty not exceeding twenty pounds and the said nuisance may be abated by an order of any Justice upon proof of the said last-mentioned order and of the disobedience thereof.

18. It shall be lawful for the body as in the last preceding section mentioned to authorize any person to make or construct any roads or temporary or permanent ways or other works over across or through any part of such works made or constructed by the holder of a miner's right under the authority of this Act: Provided that before such body shall give such authority seven days' notice thereof shall be given to the person lawfully interested in such last-mentioned works.

Managers of public roads may make roads over mining works.

19. When any land *bona fide* and legally held for residence or business on which any such building or erection as aforesaid may have been put up shall be about to be sold such building or erection or other *bona fide* improvements that may be made on such land shall prior to the erection of such building or erection be valued and for the purpose of ascertaining such value in case the holder of the miner's right or business license by virtue of which the land upon which shall be situate such building or erection shall have been occupied or his assigns and the Commissioner shall not agree upon the value it shall be lawful for the Warden of the district within which such building or erection shall be situate on the application of such holder or of the said Commissioner to make an order that the same shall be valued by some competent person to be appointed in such order and by two other persons one of whom shall be appointed by the said Commissioner and the other by such holder or his assigns and such three arbitrators or any two of them shall make their valuation in writing (so as the amount of such valuation shall not exceed the cost of constructing such building erection or other *bona fide* improvements) on or before the day named for that purpose in such order or on or before such further day as the said Warden shall by writing indorsed on the same order appoint and such order shall be in the form contained in the Third Schedule to this Act or to the like effect and shall be filed in the said Court and every such award shall be in the form contained in the Fourth Schedule to this Act or to the like effect and shall be delivered to the said Warden in order that such award may be and the same shall be transmitted to and deposited in the office of the said last-mentioned Board.

Value of buildings held under miners' rights or business license to be arbitrated.

Third Schedule.

Fourth Schedule.

20. Upon any valuation under this Act each party shall appoint an arbitrator by delivering to the Warden who shall have made the order for valuation an appointment of a person as arbitrator signed by himself or his agent and shall serve upon the opposite party a copy of such appointment. If either of the parties shall fail so to deliver such appointment and serve such copy the other party if he shall not have failed to do so may serve upon the party who has so failed a copy of the said order for valuation accompanied by a notice requiring him to deliver such appointment to the said Warden and a copy thereof to the party serving such notice and if within fourteen days from the service of such copy and notice the party who shall have so failed shall still fail to deliver such appointment and copy the arbitrator appointed by the party who shall have served such notice shall be deemed to be appointed by and shall act alone on behalf of both parties and the valuation of any arbitrator or arbitrators appointed in pursuance of this Act shall be binding final and conclusive upon Her Majesty and the said holder of the said miner's right or business license or his assigns to all intents and purposes whatsoever.

Proceedings on neglect to appoint an arbitrator.

Death of arbitrator.

21. If before the making of such valuation as aforesaid any arbitrator die or refuse or by absence from the Colony or otherwise become incapable to act the Warden or party by whom such arbitrator shall have been appointed (as the case may be) shall appoint in like manner another in his stead and if either party fail so to do for the space of fourteen days after notice from the other party in that behalf the arbitrator appointed by the party giving the notice may proceed alone *ex parte* and every arbitrator so appointed shall have the same powers and authorities as were vested in the arbitrator in whose stead the appointment shall be made. 5 10

Holder of miner's right or business license to have the value.

22. The value so ascertained of any such building or erection as aforesaid shall be added to the upset price of the land without such building or erection and shall together therewith be and constitute the actual upset price of such land and if the said holder of the said business license or miner's right shall bid such last-mentioned upset price or more and shall be the highest bidder for such land the value aforesaid shall be deducted from the sum so bidden and the balance shall be the purchase money for such land but if any other person than such holder shall become the purchaser of such land and shall pay for the same such holder shall be entitled to receive out of such purchase money the said value of such building or erection. 15 20

Races to be reserved on sale of Crown lands.

23. When at the time of any grant or conveyance under any Waste Lands Act for the time being in force any race drain dam or reservoir flows through or over or is upon the land so conveyed although no reservation or exception thereof be contained in the Crown grant of such land no person unless specially authorized thereto by the Commissioner shall obstruct or interfere therewith and the Commissioner may grant licenses in respect to such last-mentioned race drain dam or reservoir in the same manner as if the same were situated on Crown lands and the licensee may by the authority thereof and for the purposes therein expressed enter upon the land so conveyed but such licensee shall make compensation to the owner of such land for any damage occasioned by such entry. When at the time of any such grant or conveyance any race dam or reservoir flows through or over or is upon the land so conveyed although no reservation or exception thereof be contained in the Crown grant of such land no person unless specially authorized thereto by the Commissioner shall obstruct or interfere therewith and the holder of any license from the Commissioner in respect to any such dam race or reservoir and the holder of any miner's right who has constructed or has acquired the right to use any such race dam or reservoir may at all reasonable times enter upon any land conveyed or to be conveyed under the said last-mentioned Acts and may cleanse and clear and keep in efficient repair such race dam or reservoir and may deposit the matter removed therefrom upon the land immediately adjoining such race dam or reservoir to a distance not exceeding five feet therefrom without making any compensation to the owner of such land. 25 30 35 40 45

Governor may make regulations.

24. It shall be lawful for the Governor in Council subject to the provisions of this Act from time to time to make regulations for any Gold Field or for any portion of a Gold Field and to alter amend or revoke the same and such regulations may be for any of the following purposes :— 50

- (1.) For prescribing the terms and conditions upon which miners' rights and business licenses shall be granted and the modes times and places of the issue thereof. 55
- (2.) For determining the area boundaries form and position of any claim or class of claims.
- (3.) For regulating the number of sluice heads that may be granted to applicants for water licenses. 60

- (4.) For prescribing the manner in which and with what rights and obligations any such claim or class of claims or any dam by virtue of a miner's right shall be taken possession of held occupied used worked assigned or forfeited.
- 5 (5.) For regulating the application and use of machinery.
- (6.) For regulating the mode of construction and strength of embankments of dams and reservoirs used or to be constructed by virtue of a miner's right.
- 10 (7.) For determining the distance at which mining shafts and other mining workings are to be kept from public and private roads ways and passages and from private lands dwellings and other buildings and for enforcing the same.
- (8.) For the prevention of nuisances in and about residences or places of business held under miners' rights or business licenses and for the cleansing and keeping clean the same.
- 15 (9.) For preventing the defiling or wasting of water used for domestic purposes and for determining whether any and what spring stream or other depository of water or any portion thereof shall be reserved for domestic purposes and the mode of such reservation.
- 20 (10.) For prescribing the mode in and the terms and conditions subject to which a stream or river or any portion of a stream or river may be diverted from its natural course for the purpose of mining therein.
- 25 (11.) For the registration of water races claims and every description of mining property and of assignments thereof for the imposing and collection of such registration and other fees as may be deemed expedient for carrying out any such regulation.
- 30 (12.) For determining the cases in which Crown land lawfully and *bona fide* used as a yard garden cultivated field or orchard or upon which any house or other building or any artificial dam or reservoir shall be standing as hereinbefore mentioned shall cease to be excepted from occupation for mining purposes and for prescribing the manner in which compensation shall be ascertained and paid to the person or persons holding or using such land.
- 35 (13.) And all such other regulations relating to mining and to the enjoyment occupation and use of Crown land within a Gold Field as the Governor may deem beneficial.
- 40 (14.) To enable owners of claims held under miners' rights and leases of auriferous Crown lands to make levels adits drives or tunnels through other Crown lands whether held by virtue of miners' rights or otherwise and to prescribe the mode in and the terms and conditions on which such levels adits drives or tunnels may be made and on which compensation shall be ascertained and paid to persons injured thereby.
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- 50 **25.** Nothing in this Act contained shall be held to authorize mining on private land held under Crown grant without the consent of the owner thereof. Mining upon private land.
- 26.** It shall be lawful for the Governor to cause to be issued to any person in such form and on such terms and conditions as the Governor shall think fit a license to be called a "prospecting license" Prospecting licenses to issue.
- 55 which shall authorize the person to whom the same is issued to prospect and search for gold on any land within the district specified in such license provided such person shall have obtained the consent of the owner of such land but no such license shall be issued for prospecting for gold on any Gold Field or if issued shall have any force
- 60 or effect therein.

Governor may grant special claims.

27. It shall be lawful for the Governor upon application being made to grant special claims of greater area than may be determined by the regulations to be made as aforesaid for the purpose of carrying on mining operations under circumstances of extraordinary difficulty or involving the expenditure of considerable sums of money or for the encouragement of enterprise in prospecting new ground or as a reward for the discovery of new gold workings and also to prescribe the terms and conditions upon which any such special claim may be held occupied worked and forfeited. 5

Construction of roads bridges &c. by private enterprise.

28. It shall be lawful for the Governor to authorize the construction by private enterprise of any road bridge wharf ferry or other public work for the use and benefit of the public and to permit the occupation for a limited period of sites for the same and to provide for the payment of such tolls for a limited period by all persons using the same as he shall deem reasonable and the Governor in Council may from time to time make alter and revoke regulations for collecting such tolls and for preventing the evasion thereof and generally for the control and management of the said roads bridges wharves ferries or other public works and such regulations upon and after being published in the *Gazette* of the Province to which they may apply shall have the force of law. 10 15 20

Governor may make regulations for the depasturing of stock.

29. It shall be lawful for the Governor from time to time to make alter and revoke regulations for the depasturing of stock upon any lands within proclaimed Gold Fields for which a lease or license for depasturing purposes has not been granted or has been cancelled or suspended and to regulate the number of horses or cattle which may be run upon such lands by the holders of miners' rights and business licenses or of mining mineral and agricultural leases or by other persons resident on such Gold Field and to issue depasturing licenses and to regulate the fees that shall be paid therefor. 25 30

Cattle not to be depastured upon runs without consent of lessee.

30. Any person depasturing great or small cattle on any Crown land held and occupied by virtue of a depasturing lease or license within a Gold Field without the sanction and consent of the lessee or licensee shall upon proof thereof be adjudged to pay to such lessee or licensee by way of damages for each offence any sum not exceeding ten shillings per head for every head of cattle so depastured. 35

PART II.

COMPENSATION.

Governor may suspend pasturage licenses on Gold Fields.

31. When any Gold Mine or Gold Field shall be discovered and proclaimed upon any Crown lands which at the date of the passing of this Act shall have been held under license or lease for depasturing purposes it shall be lawful for the Governor at his discretion to cancel the license or lease under which such land shall have been held in occupation as regards the whole or any part of the lands so held under such license or lease or with the concurrence of the licensee or lessee to suspend such lease or license as regards the whole or any part of such lands. 40 45

- 32.** The licensee or lessee shall be entitled to compensation on account of any such cancelling or suspension of his license or lease and the amount of such compensation shall be determined by agreement between the licensee or lessee or any person appointed by him and any person appointed for that purpose by or on behalf of the Governor and such compensation when ascertained shall be paid by the Governor out of the revenue of the Province within which the lands held under the license or lease so cancelled or suspended are situate.
- 33.** In case the amount of such compensation shall not be fixed by agreement in manner aforesaid within one month after the date of the cancellation or suspension of such license or lease in respect of the whole or a portion of any such lands such amount in dispute shall be settled within three months by two arbiters one to be chosen by the Governor and the other by the licensee or lessee and an umpire to be chosen by the arbiters before they shall enter upon the reference and if any arbiter or umpire appointed under this Act shall die or refuse or neglect to act another person shall forthwith be appointed to supply the place of the person so dying or refusing or neglecting to act in the same manner as such last-mentioned person was appointed and such compensation when ascertained as last aforesaid shall be paid in like manner as compensation ascertained under the last preceding section and the said arbiters and umpire may summon and examine upon oath any witness and administer an oath for that purpose.
- 34.** In the determination of the matters referred to them the arbiters and umpire shall be guided by equity and good conscience after full deliberation upon all the circumstances which shall be brought under their consideration and in determining the compensation to be awarded the arbiters shall *inter alia* consider not only the value of the portion of any run with respect to which the license or lease shall have been cancelled or suspended but also the extent to which the value of the remaining part of such run shall be deteriorated or affected or rendered valueless by such cancellation or suspension and shall make their award accordingly.
- 35.** It is hereby expressly declared and provided that no licensee or lessee shall be entitled to any compensation under this Act unless his license or lease shall have been cancelled or suspended under this Act.

Licensee entitled to compensation.

Compensation how to be determined.

Arbitration how to be conducted.

Licensee not entitled in certain cases.

PART III.

WATER RIGHTS AND RACES.

- 36.** It shall be lawful for the Governor to cause to be issued to any person or any person or persons body corporate or company authorized by law subject to the provisions of this Act and to the regulations that now or hereafter may be in force relating to Gold Fields a license which shall authorize the holder thereof to cut construct and use water races through and upon any Crown lands and through any private lands within any Gold Field and to take divert and use water from any spring lake pool or stream situate

Holders of miners' rights authorized to divert and use water.

or flowing upon or through any such Crown lands and any water which Her Majesty may lawfully divert and use in order to supply water for the purpose of mining for gold to such holder or any other person who may be engaged in such mining or for the purpose of supplying with water any quartz-crushing machine or any other engine or machinery employed in extracting by crushing or any other process gold from quartz stone earth or other substance or in the drainage of mines and to occupy for the purpose of depositing matter removed from such water race to the land immediately adjoining such water race to a distance not exceeding five feet on each side subject to the conditions hereinafter described. 5 10

Races to be registered.

- (1.) Any person intending to divert and use water for mining purposes by means of any water race to be constructed upon Crown lands under authority of this Act shall give notice thereof in writing to the Warden of the Gold Field District in which such water race is intended to be constructed and to any person whose interests may be affected by the diversion of such water as well as to the owner or occupier of any land through which it is proposed to carry such water race and such notice shall be in the form prescribed in the Fifth Schedule to this Act and copies of such notice shall be posted and maintained for fourteen clear days at the source or sources whence it is proposed to obtain water and at the proposed termination of such water race and the intended course thereof shall be indicated by pegs not less than two inches in diameter or by large stones marked Δ and placed not more than two hundred yards apart and such notices shall state the mean breadth and depth of the proposed water race and the quantity of water it is proposed to divert and shall also state the time required for the construction and completion of such water race and if no valid objection be entered against the construction of such water race within fourteen clear days from the delivery of such notice a license in the form of the Sixth Schedule to this Act may be granted by the Warden to the applicant subject to the provisions and conditions herein contained and on the issue of such license a fee of _____ will be charged. 15 20 25 30 35

Fifth Schedule.

Sixth Schedule.

- (2.) The Warden shall not grant a license for the construction of any water race through or over private lands until he shall have received a report from a Mining Surveyor or other competent person to be appointed by him if so required by the owner or occupier of the private lands or if the owner or occupier of the private lands objects to the proposed water race that the only course by which such water race can be carried lies through such land and until he shall be further satisfied that the conditions herein contained have been complied with. The cost of obtaining such report shall be paid by the persons applying for such license before such license shall be issued. 40 45 50
- (3.) Before a water race shall be constructed cut and used through and over private lands the owner lessee or occupier of such land shall be entitled to such compensation as shall be determined by agreement between the said owner lessee or occupier or any person appointed by him and any person appointed for that purpose by or on behalf of the parties constructing such water race and such compensation when ascertained shall be paid to such owner lessee or 55

occupier by the parties constructing such water race before they commence the construction of such water race: Provided that in case the amount of such compensation shall not be fixed by agreement in manner aforesaid within one month after the granting of such license as aforesaid then such amount in dispute shall be settled within two months after the granting of such license by two arbiters one to be chosen by such owner lessee or occupier and the other by the parties constructing such water race and an umpire to be chosen by the arbiters before they enter upon the reference and if any arbiter or umpire appointed under this Act shall die or refuse or neglect to act another person shall forthwith be appointed to supply the place of the person so dying or refusing or neglecting to act in the same manner as such last-mentioned person was appointed and such compensation when ascertained as last aforesaid shall be paid in like manner as compensation ascertained as hereinbefore provided and the arbiters and umpire may summon and examine upon oath any witness and administer an oath for that purpose.

- (4.) The persons intending to cut any water race through or over any private lands shall not except by consent of the owners or occupiers of such land enter upon such land until they shall have paid or tendered to such owner or occupier the compensation agreed or awarded to be paid to them as provided in this Act: Provided always that for the purpose merely of surveying and taking levels such persons may after giving not less than twenty-four hours nor more than seven days' notice enter upon such lands without previous consent of such owner or occupier provided that the consent of the Warden shall have been first obtained before the issue of such notice.

Races to be commenced within one Month.

- (5.) The cutting and formation of a water race must be commenced within one calendar month from the issue of the license authorizing the same and the holder of such license authorizing the same shall continue cutting and forming the same until the work is completed: Provided that the Warden may on sufficient cause being shown extend the time for commencement for a further period of one month or permit an intermission of the work for not more than two months at any one time.

Superiority of Right.

- (6.) Superiority of right to a supply of water shall be determined by priority of occupation the earlier occupant having the superior right and in all cases when the occupier claims under a certificate or other authority in writing granted by a Warden occupation shall be taken to have commenced at the date of such certificate or authority.

Superiority of Right forfeited by Disuse.

- (7.) If any race shall be entirely unused for a full period of thirty days at a time when water is available occupation of the right shall be deemed to have recommenced at the last re-occupation thereof.

Heads of Races.

- (8.) Every race shall have a point specified at which it shall be

taken from the creek or river. In races already cut this shall be taken to be the point from which the race now heads and no person shall shift a water right or any portion thereof from one race to another or alter the head of any race without the written sanction of the Warden or 5 to the prejudice of any existing right.

Alteration of Races.

- (9.) The alteration or extension of a race at any time shall not in any way affect any right or privilege attached to such race and the holders thereof shall during such alteration or 10 extension be deemed to be in occupation of all the rights and privileges attached to such race: Provided that such alteration or extension shall first be approved by the Warden and any such alteration or extension shall be applied for as provided under subsection. 15

Insufficient Supply of Water.

- (10.) If the water flowing in any creek or river is insufficient to supply all the races connected therewith the owner of any right shall on receipt of a written notice from the owner of a superior right stating that the supply of such 20 superior right is less than he is entitled to immediately cease to use the water or such portion thereof as may be necessary to make up the supply of the superior right.

Water not to be wasted.

- (11.) Holder of rights shall not allow any water to run waste 25 but such water shall be appropriated to the use of the next holder of a right according to the date of their respective registrations.

Forfeiture of Water Races.

- (12.) All right to any water race authorized to be constructed 30 under the provisions of this Act shall become forfeited if entirely unused by the owner thereof for the space of one calendar month unless in cases of sickness or unavoidable absence or in consequence of failure of water but it shall be lawful for the Warden upon sufficient cause being shown 35 to suspend the operation of this section for a further period not exceeding six months and a certificate of such suspension shall be given in writing to the holder of such license.

Licenses to be renewed.

- (13.) Every license for a water race shall be renewed annually 40 and if any such license is not so renewed within sixty days after the expiration of twelve months from the date at which it has been or may be granted it may be deemed to be forfeited and the registration thereof may be cancelled.

Reservations.

- (14.) No license shall be granted under the authority of this Act for the use or diversion of any water which is or may be required for public purposes or for the use of the miners generally. 45

Water for General Use.

- (15.) Two sluice heads of water shall if required be at all times allowed to flow in the course of any stream for general use other than mining purposes: Provided always that of the 50

necessity of the reservation contained in this and in the preceding subsection the Warden shall be the sole judge.

Side Streams.

- 5 (16.) Where a water race crosses any watercourse the use of which is required by holders of miners' rights or by the owners or occupiers of any land such water race shall be carried either over or under such watercourse so as not to interfere with the natural flow of water therein.

Tail Water may be used.

- 10 (17.) Water from a tail race may be used by any person provided that such does not interfere with the proper discharge of the tailings.

Causing Claims to be flooded.

- 15 (18.) No person shall back the water of any creek river race or watercourse upon any claim to be flooded either wilfully or by neglect.

No Person entitled to hold License for more Water than the Race is capable of carrying.

- 20 (19.) If the holder of a water license does not construct a race of sufficient capacity to carry the number of heads registered the number of heads over and above what the race is actually capable of carrying shall be liable to forfeiture.

Water for Machine Purposes.

- 25 (20.) In the event of any water that may be applied for the purpose of driving machinery for mining purposes being capable of being made available for driving other machinery than that of the applicant it shall be lawful for the Warden to refuse to grant the right to such water to the first or any applicant for such water except on the condition that the race in which such water is proposed to be taken be constructed at such a level and in such a manner as that the water may become available for driving and working all the machinery or such of them as in the opinion of the Warden can be supplied by such race and in such case the Warden may cause a survey to be made and plans drawn by such Surveyor or Engineer as he may appoint in that behalf and the owners or occupiers of the respective machines shall in such case contribute towards the cost of such race in proportion to the quantity of water that each may require and to the relative advantages that each may be expected to derive from the construction and use of such race and to the probable expense that each would have to incur in independently leading a supply of water to his machine and such proportion shall in case of dispute be settled by arbitration.
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Limited Water Rights.

- 50 (21.) It shall be lawful for the Warden in granting any water license to limit the grant to certain months in the year only and the months for which any such license is granted shall in such case be set forth on the face of the license and the holder of any such license shall refrain from taking or using water in the race at all times other than those stated in such license: Provided always that the

Warden may in his discretion by writing under his hand authorize the holder of any such license to take and use the water at other times without incurring any penalty.

By-Washes.

(22.) Holders of licenses shall be entitled to make such by-washes as may be necessary for the security of their races and to hold the right to run water from such by-washes down such natural channels as may be convenient provided there be no prejudicial interference with previously existing rights and any person desiring to make any such by-wash or secure such right to run water shall give notice in writing to the Warden and to any person whose interests may be affected and such notice shall be posted for not less than seven days at the point where it is intended to make such by-wash at the expiration of which time if there be no valid objection the Warden may grant a certificate of registration to the applicant.

Casual damage to claims races &c.

37. The holder of a pastoral lease or license or of a depasturing license or of any agricultural lease under the authority of this or any former Gold Fields Act and the owner or occupier of private property shall not be liable for any casual damage caused or done by sheep or cattle to any claim water race dam or reservoir situate upon lands with respect to which any such lease or license shall have been or may be granted or of which he is the owner or occupier.

Use of water may be sold.

38. It shall be lawful for the holder of a license under this Act or under the authority of any former Gold Fields Act empowering such holder to divert water and to cut construct and use water races dams and reservoirs to sell and dispose of the right to and the use of the whole or any portion of such water and in all cases such transfer shall be registered in the office of the Warden of the district.

Resumption of water right.

39. Whenever any water which has been or hereafter may be diverted under any license or other authority empowering such diversion shall be required for the purposes of settlement and for the use of *bond fide* settlers or for any public use or purpose it shall be lawful for the Governor to revoke such license or other authority and to cause such water to be restored to its natural channel: Provided that the Governor may in his discretion allow sufficient time for the completion of any mining operations for or in connection with which such water shall be in actual use at the date of such revocation.

Compensation to be paid.

40. The holder of any such license or other authority shall be entitled to compensation on account of any revocation as aforesaid and for all races dams reservoirs and other works cut or constructed for the diversion of such water and the amount of such compensation shall be determined in the same manner as is provided by the thirty-second thirty-third and thirty-fourth sections of this Act on account of the cancellation or suspension of a license or lease for depasturing purposes.

Rent to be paid.

41. It shall be lawful for the Governor in Council from time to time to make alter and revoke regulations for imposing on the holders of licenses granted under this or any preceding Act or under any rules and regulations that formerly have been now are or hereafter may be in force empowering such holders to cut construct and use water races dams and reservoirs such periodical rents fees or other payments as he may think fit.

PART IV.

GOLD-MINING LEASES.

42. It shall be lawful for the Governor in Council in the name and on behalf of Her Majesty to demise for mining purposes to any person for any term not exceeding fifteen years from the making of the lease any auriferous Crown lands not exceeding ten acres in the whole of alluvial ground or an area of fifteen acres on a quartz reef and to grant sites for machinery and any necessary easements for the purposes aforesaid: Provided always that no such lease shall be granted until ten days after notice of the intention to grant the same shall have been published in the *New Zealand Gazette* or in the *Gazette* of the Province in which such lands are situate and also in at least one of the local newspapers best calculated in the opinion of the Governor to give publicity to the same amongst the persons specially interested.
43. It shall be lawful for the Governor in Council from time to time to make such regulations not being contrary to the provisions of this Act as he shall think fit for regulating the granting of leases for mining purposes and the terms and conditions on which such leases shall be granted the amount of rent or royalty to be paid whether in advance or otherwise by the grantees of such leases the manner in which persons desirous of having such leases granted to them shall mark out the land for which they apply the mode and time of making and investigating and of determining upon applications for and objections to the granting of leases the amount of deposit to be paid by the applicant and objector respectively as a security for the costs connected with such determination and the terms and conditions upon which such leases may be held occupied worked assigned and forfeited or cancelled and such regulations from time to time to alter amend or revoke. And such regulations may be applicable either to the whole Colony or to any part thereof.
44. When application shall have been made for a lease of any auriferous land to the whole or any part of which any person other than the applicant shall claim to be entitled by virtue of prior occupation under a miner's right business license or lease the objection to the granting of such lease may be heard and dealt with by a Warden in the same way as a case of encroachment under this Act.
45. Any person being the holder of a mining lease under the provisions of this or any preceding Act authorizing the granting of leases for mining purposes shall be entitled at any time with the consent of the Governor to surrender the same either for the whole or for any part thereof and it shall be lawful for the Governor at his discretion to accept such surrender either in whole or in part and if such surrender is for a part only to reduce the rent payable by the lessee proportionably: Provided that a lessee shall not be entitled to make such surrender in part more than twice during the currency of the lease.
46. Any applicant for any lease or license or for any claim which may be granted under the provisions of this Act or under any regulations made in conformity therewith shall mark out the land for the lease of which or license in respect of which he shall apply in the manner prescribed by such Act or Regulations and if any person who shall not previously have been in lawful occupation of such land shall at any time thereafter until or unless the application for the lease or license shall be refused or unless authorized thereto by the Governor enter upon occupy or in any way interfere with such land such entry occupation or interference shall be deemed a case of trespass or encroachment within the jurisdiction of the Wardens appointed or to be appointed under this Act and such applicant may proceed therefor and for any damages in respect of such trespass or encroachment and

Governor may grant gold-mining leases.

Governor to make regulations.

Warden to determine claims of prior occupation.

Gold-mining lease may be surrendered.

Applicant for lease or license to mark out land.

for the recovery of any gold taken by such person out of such land or of the value thereof: Provided that the applicant shall not be entitled to have delivered to him any such gold nor to receive payment of the amount of the value thereof nor of any damages awarded to him until it shall have been decided to grant his application but such gold or such amount or damages shall until the matter of the application shall be determined be lodged with the Receiver of Gold Revenue and if determined in favour of the applicant shall be delivered or paid to him and if otherwise to the person from whom the same shall have recovered.

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PART V.

AGRICULTURAL LEASES.

Land to be set apart for agricultural purposes.

47. It shall be lawful for the Governor to cause Crown lands situate within a Gold Field to be selected and set apart for the purpose of granting agricultural leases thereon and therefor: Provided that the extent of land which may be so selected upon any run which at the date of the passing of this Act shall be held under a license or lease for depasturing purposes shall not exceed five thousand acres nor be selected in more than two separate blocks without the consent of the licensee or lessee thereof: Provided also that when one-half of any such selected block shall have been sold or leased and shall be occupied *boná fide* for agricultural purposes another block of similar extent may be selected and set apart upon the same run.

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Pastoral lease or license may be cancelled in whole or in part.

48. When any such Crown lands have been so selected and set apart as aforesaid the licensee or lessee thereof may make an application to the Governor to have his license or lease cancelled over the whole of such selected lands or over such portions only thereof as shall from time to time be occupied for agricultural purposes and the Governor shall in conformity with such application cancel such depasturing license or lease over the part so selected accordingly and the licensee or lessee shall upon such cancellation be entitled to compensation the amount whereof shall be determined in the like manner as is provided by sections thirty-two thirty-three and thirty-four of this Act.

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Governor may grant agricultural leases.

49. Subject to the provisions of this Act it shall be lawful for the Governor in the name and on behalf of Her Majesty by deed from time to time to demise for agricultural purposes to any person for any term not exceeding seven years from the making of the lease any land within a gold field which shall be included within any block so selected and set apart as aforesaid or any land for which a license or lease for depasturing purposes shall not have been granted at the date of the passing of this Act or over which any such license or lease shall have been cancelled: Provided that no agricultural lease shall exceed two hundred acres in the whole and in one block subject to such rent costs and conditions on the part of the lessee his executors administrators and assigns to be paid observed and performed as to the Governor shall seem fit.

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50. Provided that if at any time after the granting of any such lease the land thereby demised or any part thereof shall in the judgment of the Governor be proved to be auriferous or to contain any metal or mineral the Governor or any person appointed by him may
 5 give notice in writing as hereinafter mentioned of his intention to determine such lease over the whole or part of the land. And at the expiration of three months from the delivery of such notice to the lessee or occupier or to some servant of one of them on the demised land or from the affixing of such notice to some conspicuous object on
 10 the demised land in case there is no occupier or servant as aforesaid thereon such lease shall become null and void and all interest of the lessee his executors administrators and assigns therein shall cease and determine.

Lease may be determined.

51. Provided nevertheless that such lessee his executors administrators or assigns shall be entitled to compensation on account of the determination of his lease by such notice as last aforesaid and for any improvement he may have made on such land during the subsistence of such lease to be ascertained in the same manner as is provided by sections thirty-two thirty-three and thirty-four of this Act on account
 20 of the cancellation or suspension of a license or lease for depasturing purposes: Provided always that in so far as such improvements shall consist of buildings such buildings shall have been erected in accordance with conditions to be expressed in the lease and that compensation shall not be adjudged and paid for any land unless
 25 the same shall be occupied *bona fide* and shall have been planted cultivated or otherwise improved.

Lessee to be compensated.

52. It shall be lawful for the Governor from time to time to make regulations prescribing the mode in which applications may be made for leases of land for agricultural purposes the quantity of land
 30 not exceeding two hundred acres which shall and may be granted in a lease in any particular block the amount of deposit to be paid by any applicant therefor and by any objector thereto the terms and conditions upon which such leases may be held occupied assigned transferred forfeited and cancelled the amount of rent payable therefor
 35 and the times and places of payment the conditions upon and the manner in which entry to search for gold or for any metal or mineral upon any land so leased may be authorized and the terms and conditions upon which holders of miners' rights may be permitted to mine upon land the lease for which shall have been determined on
 40 account of its auriferous character and such regulations from time to time to amend alter and revoke.

Governor may make regulations.

PART VI.

PROVISIONS RELATING TO LEASES AND LICENSES.

53. Every lease of land within a Gold Field under this Act may
 45 be made by deed signed by the Governor or his delegate in the presence of and attested by one credible witness and may be in the form or to the effect set forth in the Seventh Schedule to this Act.

Form of lease.

Seventh Schedule.

Leases heretofore signed to be deemed lawfully executed.

54. Every such lease heretofore respectively signed by the Governor or by the Superintendent of any Province or other person by virtue of a delegation under section one hundred and nine of "The Gold Fields Act 1866" or hereafter by the Governor or by the Superintendent of any Province or other person by virtue of a delegation under this Act shall be deemed to be lawfully executed and such mode of execution shall be deemed to be authorized by the said Act and to be a good and efficient execution without any other formality. And in all cases of demises heretofore made under the provisions of "The Gold Fields Act 1866" or hereafter to be made under the provisions of this Act such demises whether of land or of liberty to mine for gold in through and over land shall be deemed and taken to operate and to have operated as demises of the land to which the same may relate and to be and to have been valid and effectual for granting and demising such land.

Covenants to be proclaimed.

55. The Governor may by Proclamation in the *New Zealand Gazette* or in the *Gazette* of the Province in which any Gold Field as aforesaid is situate proclaim and declare the exceptions to be made from leases and licenses granted under this Act and he may also proclaim and declare the covenants clauses provisos conditions and agreements applicable to such leases and licenses respectively and he may in like manner from time to time rescind alter or vary the same.

Leases may be subject to covenants.

56. In every such lease and license as aforesaid it may be expressly declared that the same is made subject to the exceptions covenants clauses provisos and agreements so proclaimed and declared as aforesaid or such of them as shall be expressly specified or referred to in such lease or license and every such lease or license shall be deemed and taken to contain as applicable to the respective parties thereto the exceptions covenants clauses provisos conditions and agreements so specified and referred to as effectually as if the same were expressly contained in such lease or license.

Covenants to be enforced by the Governor.

57. All covenants on the part of the lessee or licensee his heirs executors administrators or assigns in any lease and all powers reserved to the lessor or licensor his heirs executors administrators or assigns in any lease implied and all other covenants agreements stipulations reservations and conditions expressed in any lease or license made in pursuance of this Act on the part of the lessee or licensee his heirs executors administrators or assigns to be made entered into reserved or undertaken to and with the Governor shall be deemed and taken to be made entered into reserved or undertaken to and with the Governor for the time being and when and so often as the present Governor and any succeeding Governor shall cease to hold such office shall by virtue of this Act be vested in and be enforceable by his successor in the said office.

Actions to be carried on in the name of the Governor.

58. The Governor for the time being may bring prosecute and maintain any action of ejectment or other proceedings for recovering possession of any lands so demised or granted under any license and may sue and distrain for any arrears of rent which shall have become due for or in respect of any parole or other demise from him or any predecessor in office made in pursuance of any former or of this Act and also may bring prosecute and maintain any other action in respect of any covenants agreements stipulations reservations and conditions whatsoever contained or implied in any such demise or grant and in every such action or other proceeding shall be styled "The Governor" without being named: Provided that nothing in this Act contained shall interfere with the powers or functions for the time being vested in any Commissioner of Crown Lands.

Action not to abate on change of Governor.

59. No such action or other proceeding shall abate by the death resignation or removal from office of the Governor.

60. Nothing in any lease made in pursuance of any former or of this Act shall extend to charge the person of the Governor or the heirs executors or administrators of such Governor or any of his or their own proper lands tenements goods or chattels with or for the performance of all or any of the covenants conditions or agreements in such lease contained on the part of the Governor.

Governor not personally liable.

PART VII.

SALE OF LAND ON GOLD FIELDS.

61. Any district proclaimed or to be proclaimed a Gold Field shall not be subject to any provisions of any Waste Lands Act or of any other law for the time being in force regulating the sale disposal and occupation of Crown lands within the Province in which such Gold Field is situate except so far as such provisions may relate to the granting of mineral leases or to the issue of leases or licenses for any of the following purposes—

Gold Fields not subject to provisions of Land Acts except in certain cases.

- Cutting and felling of timber
- Raising of lignite and coal
- Removal of clay for bricks and pottery
- Removal of sand gravel and stone
- Working of quarries
- Sites for saw-mills flour-mills tanneries fellmongers' yards slaughter yards potteries and brick kilns

or to the occupation of land under any depasturing lease or license granted before the issue of the Proclamation establishing such Gold Field or to land heretofore or which hereafter may be reserved for any public use or purpose or except so far as such provisions may specially authorize the sale or leasing of land within a Gold Field: Provided that it shall be lawful for the Governor at any time subsequent to the proclamation of a Gold Field to withdraw by Proclamation therefrom any Crown lands which he may deem it necessary to withdraw and such lands shall thenceforth be dealt with sold occupied and disposed of under any law or laws for the time being in force regulating the sale occupation or disposal of or in any way affecting or relating to the management or dealing with the Crown lands within the Province in which such Gold Field is situate in like manner in every respect as though such lands had never been comprised in any proclaimed Gold Field.

62. Provided also that if a depasturing lease or license shall not at the date of the passing of this Act have been granted or shall have been or shall be cancelled over any Crown lands within a Gold Field it shall be lawful for the Governor from time to time by Proclamation to declare such lands or any part thereof open for sale or selection in sections of such size and form as he may determine and any lands so proclaimed may thereafter be sold at a like price and subject to the like terms and conditions or as near thereto as may be as Crown lands of the same class not within a Gold Field and it shall not be necessary

Sale of land when no depasturing lease or license exists.

to withdraw lands from the operation of this Act for the purposes aforesaid. And the Governor may from time to time alter amend or revoke any such Proclamation.

Agricultural lessees
entitled to purchase.

. 63. Any person being the holder of a lease of land for agricultural purposes under the provisions of this or of any preceding Act author- 5
izing the issue and granting of such lease upon a Gold Field and who shall have planted cultivated or otherwise improved two-thirds or more of the same shall be entitled to purchase the fee-simple thereof without competition at any period being not less than three nor more than seven years after the date of such lease and at the upset price which 10
at the date of such purchase shall have been fixed by law for Crown lands of the same class in the Province wherein such land shall be situated: Provided that there shall be no renewal of such leases under this Act.

PART VIII.

15

REVENUE AND EXPENSES.

Rents &c. to be land
revenue.

64. All rents royalties and fees which shall be receivable under this Act shall be paid to a Receiver of Land Revenue or other officer who shall be called a Receiver of Gold Revenue and shall for all purposes be deemed to be revenue and receipts arising from the sale 20
letting disposal and occupation of the Waste Lands of the Crown and shall be chargeable in the first instance with all the costs charges and expenses of carrying this Act into execution.

Costs to be paid out
of receipts.

65. All the costs charges and expenses incident to the manage- 25
ment and administration of the Gold Fields of the Colony and to the construction and repair of works of public utility and convenience therein or leading thereto shall be from time to time regulated in such manner as shall be directed by the Governor in Council and shall be paid out of the revenues or receipts to arise from fees fines rents royalties or in any other manner howsoever under this Act any 30
provision in any other Act or Ordinance contained to the contrary notwithstanding.

When powers
delegated costs to
be regulated by
Provincial Legis-
latures.

66. Provided always that whenever the Governor shall have delegated to the Superintendent or the Executive Council of any Province as hereinafter provided all or any of the powers vested in the 35
Governor or in the Governor in Council by "this Act" it shall be lawful for the Governor by Order in Council to appoint and declare that all the costs charges and expenses incident to the management and administration of the Gold Fields within such Province save and except such as relate to the salaries and allowances of judicial officers 40
shall be regulated by Acts or Ordinances to be passed by the Superintendent and Provincial Council of such Province.

PART IX.

ADMINISTRATION OF JUSTICE.

67. It shall be lawful for the Governor by Order in Council from time to time to constitute for any Gold Field or for any part thereof Wardens' Courts for the administration of justice therein and to appoint Wardens of such Courts with power to act alone or with assessors and in such manner and to exercise all or any of the powers hereinafter mentioned as the Governor shall think fit to direct: Provided always that the several persons who at the time of the commencement of this Act shall hold the office of Warden shall be the first Wardens under this Act and shall so act without any fresh appointment or commission.

Wardens' Courts to be constituted.

68. Every process issued and execution of any judgment under this Act may be executed in any part of the Colony by the bailiff of any Resident Magistrate's Court or by any other person to whom the same may be specially directed.

Process may be executed in any part of the Colony.

69. It shall be lawful for every such Warden to hear and determine all complaints respecting boundaries of claims or respecting any encroachments upon or injury to the same and all complaints arising out of such questions to inquire into and decide upon breaches of any laws rules or regulations relating to the Gold Fields in force for the time being and to inflict the penalties imposed by the same to decree forfeitures of mining interests to entertain partnership questions and generally to hear and determine all disputes between miners relating to gold mining and as hereinafter provided to ascertain damages and award compensation.

Warden to hear and determine complaints.

70. It shall be lawful for any such Warden upon the complaint of any person holding the miner's right or any license or lease under the provisions of this Act that any other person has encroached upon the claim of the complainant to investigate the matter of such complaint and to inquire into the case and upon view or upon the oath of any witness to determine the same in a summary way and if it shall appear to such Warden that the person so complained against has so encroached by occupying mining or undermining such claim or unlawfully interfered therewith in any other way whatsoever whereby the right title or interest of such applicant in or to such claim shall have been injuriously affected it shall be lawful for such Warden to adjudge accordingly and to assess and award to the complainant the amount of damage (if any) sustained by the complainant and to cause the encroaching person his servants implements goods and chattels to be removed from the claim so encroached upon and every such Warden shall have the like powers of making orders by way of injunction for restraining future encroachments as a Court of Equity would have in like case and may enforce such orders in like manner as a Court of Equity.

Warden to hear cases of encroachment.

71. It shall be lawful for such Warden upon the hearing of any complaint as aforesaid upon proof of any gold having been unlawfully or improperly removed from any claim to cause any gold which may have been so taken or removed to be summarily seized and delivered to the person whose claim has been encroached upon or to order and decree the payment of the value of such gold to the complainant.

Warden may order gold to be seized or value paid.

72. It shall be lawful for any such Warden upon any complaint made by the holder of any miner's right lease or license as aforesaid that he is or has been whilst such holder engaged in a gold-mining partnership with any other person within the mining district wherein the land held or occupied under such miner's right lease or license is situated and that a balance is due to him on account thereof or upon the application of any such holder so engaged in such partnership that the partnership may be dissolved and that the sums respectively due to the several members thereof may be ascertained and paid to issue a

Mining partnerships.

summons requiring such members of the said partnership as he shall deem necessary to appear before him and upon such appearance or in default thereof after service of such a summons to procure and compel the same as hereinafter provided or in the absence of such members as shall not appear to be necessary parties to such case to inquire into and hear such complaint or application and order that such partnership shall be dissolved to cause accounts to be rendered and ascertain and determine the amount to be paid by any member or members thereof and to authorize the sale of any claim water race dam or reservoir lawfully held by the parties to the suit as joint tenants and to authorize the sale of any mining plant the joint property of the said parties and to divide the proceeds thereof to appoint receivers and do all that may be necessary in the premises and to exercise all such powers in making and enforcing any award judgment or order in the matter as are hereinafter more particularly provided and such Warden shall have further power to hear and determine all questions in dispute relating to their partnership affairs between partners in any such partnership.

Roll of assessors.

73. Every Warden shall make or cause to be made a list of persons not less than fifty in number or of such a number under and as near fifty as the population of the neighbourhood will permit of good repute and who shall be holders of miners' rights or business licenses residing within five miles of the Court house or building wherein such Warden usually holds his Court and the said list shall be the roll of Warden's assessors of such district.

Power to summon assessors &c.

74. Every such Warden shall have power to summon assessors witnesses and parties necessary to any case to be heard by such Court and to administer an oath to any such witness and any party to the suit and to issue warrants to compel the attendance of any such assessors witnesses and parties and no proceedings taken before any such Court shall be quashed for want of form or be removed into the Supreme Court by *certiorari* or otherwise.

Assessors to be summoned by Warden.

75. It shall be lawful for either of the parties previous to the hearing of any complaint or case in any Warden's Court to require from the Warden or for the Warden either before or during such hearing to require that such complaint or case shall be heard before such Warden and four assessors and thereupon such Warden shall summon before him either orally or in writing a sufficient number of the persons whose names shall appear upon such roll as aforesaid or if there shall be no such roll or if a sufficient number of persons whose names shall be on such roll cannot be found then of indifferent persons to act as such assessors until the number of four assessors be obtained: Provided also that before any such assessors as aforesaid shall be summoned by any Warden such Warden shall demand and receive the sum of two pounds from the person demanding assessors and each of the assessors before whom the complaint is heard shall be entitled to receive thereout the sum of ten shillings and in case the hearing of any complaint or case shall be adjourned to any future day the Warden shall demand and receive the further sum of two pounds for every such adjournment and each of the assessors shall be entitled to receive thereout the further sum of ten shillings: Provided that where the Warden without a requisition from either of the parties shall summon assessors the Warden shall before the hearing demand and receive from the complainant the sum of two pounds as aforesaid and also in case of any such adjournment such further sum of two pounds for the payment of such assessors at the rate aforesaid and any part of any such sums which shall not be required for the payment of assessors shall be returned to the complainant and the residue thereof shall eventually be paid as part of the costs of the proceeding by such of the parties as the Warden shall in that behalf direct.

Fees to assessors.

5 **76.** Either party shall be admitted to challenge any number of such persons as aforesaid called as assessors not exceeding two without assigning cause and any additional number provided he assigns of his challenge a cause certain and the truth of such challenges shall be inquired of by the Warden. Challenges.

10 **77.** Before any such assessor shall proceed to hear any case in any such Court the Warden shall administer to him an oath to the effect that he will well and truly inquire into the matter of complaint or in dispute then submitted and a true finding and decision give Hearing of complaints.
 15 Warden and Assessors shall proceed to hear such complaint the matter of which shall be decided by the assessors under the direction of the Warden on any point of law and the decision of the majority of them shall be given by such Warden as the judgment of the Court but if
 20 after the expiration of six hours from the time at which the case shall have been left to the assessors they shall intimate to the Warden that a majority of them cannot agree upon a verdict then such Warden may in his discretion either himself decide such complaint or dismiss the same on such terms as to costs or otherwise as he may think fit.

25 **78.** A minute of every decision shall be entered by the Warden in a book to be kept for that purpose and shall be signed by the Warden and in cases heard before and determined by assessors such minute shall also be signed by such of them as concur in making such decision and no formal order shall be necessary and a copy of such
 30 minute shall on demand be given to any of the parties interested therein. Decision to be recorded.

35 **79.** It shall be lawful for any such Warden whenever it shall seem fit or requisite so to do to order the working of any claim affected by any matter in dispute brought before him to be suspended until
 40 such matter shall have been investigated and adjudicated upon as herein provided. Warden may suspend working of any claim.

45 **80.** Either of the parties to any suit before a Warden may previous to or during the hearing of any case apply for an inspection to be made by such Warden or Warden and Assessors of any land claim
 50 water race dam reservoir or easement in dispute and if the party so applying shall satisfy the Warden of the reasonableness of such application such Warden if the case be heard before him alone shall make such inspection but if heard before him and assessors shall make an
 55 order for such inspection by the assessors upon payment to the Warden by the party so applying of such sum (if any) and upon such terms as to the said Warden shall seem reasonable and thereupon the Warden and Assessors shall make such inspection and any sum so paid shall be appropriated towards defraying the expenses of the assessors by reason
 60 of such inspection: Or if such Warden shall himself deem such inspection proper he may make or order such inspection as aforesaid and in case of inspection by assessors for payment of the expenses thereof and such expenses shall eventually be paid as part of the costs of the proceedings by such of the parties as the Warden shall direct.

65 **81.** If previous to or during the hearing of any complaint it shall appear to the Warden that it will be necessary for a survey to be made of any land or water in dispute such Warden may order either party to cause such survey and a plan thereof to be made and the costs thereof shall be deemed to be a part of the costs of the hearing. Warden may order survey.

70 **82.** It shall be lawful for any Warden upon such terms as to payment of costs or otherwise as such Warden shall think fit to grant a rehearing of any complaint decided by him or by Assessors before him and for that purpose if necessary to set aside any decision given or order made on such complaint on the previous hearing thereof:
 75 Provided that upon any such rehearing the complaint shall be heard before a Warden and Assessors if so demanded. Warden may grant rehearing.

Warden may state special case.

83. On any proceeding before a Warden or Warden and Assessors it shall be lawful for such Warden on any such terms as to the payment of costs or otherwise as he shall think fit to reserve if he shall so think fit any question in the form of a special case for the opinion of the District Court or if there be no District Court having jurisdiction over the district within which the matter in dispute shall have arisen for the opinion of the Supreme Court and in such case no decree or order shall be made in respect of any matter in which such question shall have been reserved until such opinion shall have been given and after such opinion given the said Warden shall make a decree or order in accordance therewith. 5 10

Contempt of Court.

84. If any person shall wilfully insult any Warden or any Assessor of any Warden's Court holden under this Act during his sitting or attendance in such Court or shall wilfully interrupt the proceedings of the Court or be guilty in any other manner of any wilful contempt in the face of the Court it shall be lawful for any bailiff or other officer of the Court with or without the assistance of any other person by order of the Warden to take such offender into custody and detain him until the rising of the Court and the Warden shall be empowered if he shall think fit by a warrant under his hand to commit every such offender to prison for any time not exceeding fourteen days or to impose upon any such offender a fine not exceeding ten pounds for such offence and in default of payment thereof to commit the offender to prison for any time not exceeding fourteen days unless the fine shall be sooner paid. 15 20 25

Penalty on Warden acting if interested.

85. If any Warden appointed under this Act shall knowingly adjudicate in any matter in which he shall have either directly or indirectly any pecuniary interest he shall be guilty of a misdemeanour and shall on conviction before any competent Court be liable to fine or imprisonment or both in the discretion of such Court. 30

Appeal from Warden's Court.

86. If any person shall be desirous of appealing from any order decree judgment or decision of any Warden or of any Warden and Assessors whether the ground of appeal be matter of law or matter of fact if there be a District Court having jurisdiction over the district within which the matter or dispute shall have arisen such person shall within seven days after the making of such order decree judgment or decision give notice of appeal in writing and in the form prescribed by the Eighth Schedule hereto annexed to such Warden and to the other party to the case in respect whereof such order decree judgment or decision was made and shall also within seven days from the date of such notice of appeal give security to the satisfaction of such Warden for the execution of the final order and the costs of the appeal. Such security may be by bond and such appeal shall be by way of special case and shall be subject to the rules and practice of the Supreme Court touching special cases stated in the course of proceedings in that Court and if the parties do not agree in the statement of the case in writing such Warden shall upon the request of either party settle the case. The party appealing shall transmit the case to the Clerk of the District Court and thereupon such Clerk shall issue out of such Court a summons directed to the persons interested in supporting such decision or to such of them as shall appear to the Judge sufficiently to represent all the parties interested requiring them to show cause to such Court at a time and place to be named in such summons why such decision should not be reversed or varied and every such summons shall be made returnable at the next sitting of the Court at such place as shall be nearest to the place at which such decision was made and every such appeal shall be heard before the said Court and if the ground of appeal be on matter of fact such Court may order the case to be reheard by the Court below and if the ground of appeal be matter of law then such Court shall 35 40 45 50 55 60

Eighth Schedule.

proceed to make an order reversing or varying such decision or dismissing such appeal and shall if necessary order restitution as the case may require and in and by such order the said Judge may award such costs to either party as the Judge shall think fit: Provided always that no such appeal shall be so heard unless the said summons shall have been served seven clear days before the same is returnable upon all parties interested in supporting such decision or upon such of them as shall appear to the Judge sufficiently to represent all the parties interested or in case no such party can be found upon the Warden who made the decision nor unless at the hearing of such appeal a copy of the minute of such decision certified under the hand of a Warden shall be produced to such Court and proof of the handwriting of such Warden to such copy shall be *prima facie* evidence of such decision and upon the hearing of any such appeal the Court may order such issues to be tried by the Court below as it may think fit.

87. If there be no District Court for which a Judge shall have been appointed with a full jurisdiction within the meaning of "The District Court Act 1858" in the district within which the matter in dispute shall have arisen the appeal from the decision of any Warden or Wardens and Assessors shall be to the Supreme Court sitting in the Judicial District within which the matter in dispute shall have arisen and shall be heard at such sitting of the Court as shall have been specially appointed for the hearing of appeals from Wardens' Courts as shall be held next thereafter and such appeal shall in all other respects be commenced concluded and determined and such notices and deposit shall be given and made as is hereinbefore provided for the hearing of such appeals in District Courts. And special days for the hearing of appeals from Wardens' Courts shall be appointed by the Judge of the Supreme Court in each Judicial District and the Registrar of each district shall give such public notification of the days so appointed as the Court shall direct.

If no District Court appeal lies to Supreme Court.

88. It shall be lawful for the Judge of any District Court at any sitting of such Court as a Court of Appeal on any such terms as to the payment of costs or otherwise as he shall think fit upon the hearing of any such appeal to reserve if he shall so think fit any question in the form of a special case for the opinion of the Supreme Court and in such case no decree or order shall be made in respect of any matter in which such question shall have been reserved until such opinion shall have been given and after such opinion given the said District Court shall make a decree or order in accordance therewith.

Judge of District Court may state case for Supreme Court.

89. It shall be lawful for any Court holden under this Act and for any Warden or Judge thereof in such way as the Court or Warden or Judge may think fit to obtain the assistance of accountants engineers surveyors or other scientific persons the better to enable such Court or Warden or Judge to determine any matter at issue in any suit or appeal in such Court and to act upon the certificate of such persons respectively.

Assistance of skilled witnesses.

90. After any appeal against the decision of any Warden or Warden and Assessors shall be determined if such appeal shall be dismissed it shall be lawful for any Warden to proceed to enforce such decision in the same manner as such Warden might have done if no such appeal had been brought and in case any such decision shall be varied upon appeal the decision so varied shall be deemed to be the decision of the Warden or Warden and Assessors whose decision was appealed against and it shall be lawful for any Warden to proceed to enforce the decision so and as varied in the same manner as if it had been the original decision of such Warden or such Warden and Assessors and had been affirmed upon appeal: Provided always that if any decision when so affirmed or varied shall contain an award of damages and costs or either of them the Clerk of the Court of Appeal sitting

Decision upon appeal to be deemed decision of Warden's Court.

May be enforced by

Clerk of Appeal
Court.

under the provisions of this Act shall upon the application of the person entitled to such damage and costs or either of them and without any summons or notice to the person required to pay the same forthwith issue execution for the amount thereof and in case such Court shall order that any money received by any respondent under the decision appealed against shall be paid into Court and the same shall not forthwith or within the time limited for that purpose be paid into Court or in case such Court shall decree costs against any party to such appeal and the same shall not be paid into Court within the time limited for that purpose the Clerk of such Court shall (upon the application of the person entitled to receive the same and without any summons or notice to the person required to pay the same) forthwith issue execution for the amount thereof in the same manner as upon any decree of the said Court for payment of money or in case the said Court of Appeal shall order that possession of any claim or of any share therein shall be restored to the appellant then it shall be lawful for any Warden to proceed to the spot and to cause possession thereof to be delivered to such appellant and if necessary for that purpose to cause to be removed from such claim any other person his servants goods and chattels.

Warden may enforce
order for possession.

Interpleader.

91. If any claim shall be made to or in respect of any goods or chattels taken in execution under the process of any Warden's Courts or District Courts or in respect of the proceeds or value thereof by any person not being the party against whom such process has issued it shall be lawful for the Clerk of such Court upon application of the officer charged with the execution of such process as well before as after any action brought against such officer to issue a summons calling before the said Court as well the party issuing such process as the party making such claim and thereupon any action which shall have been brought in the Warden's Court or District Court in respect of such claim shall be stayed and the Court in which such action shall have been brought or any Judge thereof on proof of the issue of such summons and that the goods and chattels were so taken in execution may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons out of the Wardens' Courts or District Courts and the Judge of such Courts shall adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as to him shall seem fit and such order may be enforced in like manner as any order made in any suit brought in such Courts.

Disputes on private
property.

92. When any dispute shall arise between holders of miners' rights who shall be in occupation for mining purposes of any private land with the sanction and consent of the owner of such land it shall be lawful for a Warden to hear and determine such dispute in the manner provided by this Act for the hearing and determining of cases in the Warden's Court and in accordance as near as may be with the regulations to be made as hereinbefore provided.

Constables to assist
Warden.

93. All constables and peace officers shall within their several jurisdictions aid and assist the Warden in the execution of all and any of the duties imposed upon him by this Act.

Governor may make
regulations as to
procedure.

94. It shall be lawful for the Governor in Council from time to time to make alter and revoke rules regulating the procedure and practice in the Courts to be established under this Act and in cases of appeal therefrom and also to fix the fees to be taken in respect of proceedings therein and it shall be lawful for the Wardens and Judges of the said Courts to prescribe such regulations as may from time to time be necessary for the orderly transaction of the business of the said Courts respectively and for enforcing the orders and decrees of the said Courts.

PART X.

PENALTIES.

95. Any person not being the holder of a miner's right who shall mine for gold upon any proclaimed Gold Field and any person who shall employ any such person so to mine shall be liable to the penalties following that is to say for the first offence a sum not exceeding two pounds to be recovered in a summary way for the second or any subsequent offence a sum not exceeding ten pounds nor less than five pounds or in default thereof imprisonment in some gaol there to remain for any time not exceeding one calendar month for every five pounds or fractional part of five pounds so to be paid: Provided always that in any case where a miner's right or business license may have been lost or destroyed the existence of such right or license may be proved by reference to the books of the Receiver of Gold Revenue of the district and in such case a certificate shall be granted to the holder of such right or license securing to him all the privileges held under such right or license.
96. If any person shall forge or alter any miner's right license lease or other document issued under the authority of this Act with intent to defeat the provisions thereof or to defraud any person whomsoever he shall be guilty of a misdemeanour and on conviction thereof before any Court of competent jurisdiction shall be subject to a fine not exceeding one hundred pounds or imprisonment with or without hard labour not exceeding three years or both at the discretion of the Court.
97. If any person shall use or exhibit any forged miner's right license or lease issued or purporting to be issued under the authority of this Act knowing the same to be forged or if any person shall fraudulently personate the holder of any such miner's right license or lease or shall falsely and fraudulently represent that any servant or other person is an authorized person within the meaning of this Act or shall fraudulently use or exhibit as his own any miner's right license or lease belonging to or granted to any other person or shall use or exhibit as valid a miner's right license or lease which shall have expired he shall be liable to a penalty for every such offence not exceeding fifty pounds or imprisonment with or without hard labour not exceeding one year or both at the discretion of the Court.
98. Every person committing any breach whether by way of omission or commission of any of the rules or regulations made under the authority of this Act shall for every such breach be liable to a fine or penalty not exceeding ten pounds for the first offence and twenty pounds for any second or subsequent offence.
99. If any person summoned to attend the hearing of any suit or matter to be heard or determined under the provisions of this Act whether as assessor witness or party to the suit having been duly summoned shall neglect or refuse to attend at such time and place as shall be named in the summons or if he shall refuse to be sworn as witness or to be sworn or serve as assessor it shall be lawful for the Warden or Judge of any such Court in any such case unless some reasonable cause for such non-attendance or refusal be made to appear to such Warden or Judge to fine such person any sum not exceeding five pounds as to the Warden or Judge shall seem fit.

Penalty for mining
without miner's right.

Forgery of miner's
right a mis-
demeanour.

Penalty on
personation or
misrepresentation.

Penalty for breach
of rules or regulations.

Penalty for non-
attendance as witness
assessor &c.

Penalty for assault of Warden or Judge and contempt of Court.

100. If any person shall assault or resist any Warden or Judge of any Court constituted under this Act or any Resident Magistrate or any other person whilst in the execution of the duties to be performed by him under this Act or if any person having had the boundaries of his claim pointed out by any such Court shall encroach or trespass upon the claim of any other person or if any person being ordered by such Court to do or to refrain from doing any act or thing shall refuse or neglect to do or to refrain from doing such act or thing every such person so assaulting resisting refusing or neglecting shall be fined any sum not exceeding fifty pounds with imprisonment till payment in some gaol there to remain for any time not exceeding one calendar month for every five pounds or fractional part of five pounds so to be paid: Provided that the time of imprisonment shall in no case exceed six calendar months and shall cease upon payment of the penalty ordered to be paid together with costs.

Penalty for working claim under suspension.

101. If any person after having been ordered to suspend the working of any claim as hereinbefore provided shall work such claim he shall be liable to a penalty not exceeding twenty pounds.

Penalty for depasturing cattle without a license.

102. Any person depasturing cattle upon any Crown land within a Gold Field without a license authorizing the holder thereof in that behalf and any person depasturing a greater number of cattle than by the regulations to be made as hereinbefore provided he shall be entitled to depasture by virtue of a miner's right business license or of a mining mineral or agricultural lease shall upon conviction be liable to a penalty not exceeding ten shillings per head for each offence for every head of cattle so depastured.

Proceedings for infringement of rules and regulations how to be taken.

103. All proceedings in any Gold Field for any infringements of the provision of this Act or of any rules or regulations made in pursuance hereof shall if there be any Court constituted under this Act for such Gold Field be had and taken in such Court and if there be no such Court then before a Resident Magistrate or Justice of the Peace and shall be conducted in the same manner in all respects both as regards appeal from the decision of such Court and otherwise according to the law for the time being in force for regulating summary proceedings before Justices of the Peace.

PART XI.

GENERAL PROVISIONS.

Governor may make regulations when none provided.

104. In all cases where no provision or no sufficient provision is made by this Act it shall be lawful for the Governor in Council from time to time for the purpose of facilitating or more effectually carrying into execution any of the objects thereof to make and prescribe all such rules and regulations touching any of the matters intended to be hereby provided for and touching all matters having reference to the provisions of this Act as to the said Governor in Council may seem

expedient and such rules and regulations from time to time to alter and revoke as to the Governor in Council may appear requisite.

105. For the protection of Wardens of Wardens' Courts for anything done in the execution of their office it is hereby declared that the third section of "The Justices of the Peace Protection Act 1866" shall be read and construed as if the words "Wardens of Wardens' Courts" followed the words "Justices of the Peace Resident Magistrates" in the seventh line thereof and that wherever the words "Justice of the Peace" shall thereafter occur in the said Act it shall be read and construed as if the words "or Warden of Wardens' Courts" followed the words "Justice of the Peace" and that in all respects "The Justice of the Peace Protection Act 1866" shall apply to Wardens of Wardens' Courts to the same extent and in the same manner as the said Act does now apply to the acts and things done by Justices of the Peace in the execution of their office.

Protection of
Wardens in execution
of their office.

106. It shall be lawful for the Governor in Council under his hand from time to time to delegate to the Superintendent of any Province or to the Executive Government of any Province and their successors in office or to the Chairman for the time being of the County of Westland or to such other person as the Governor may deem fit or any of the powers vested in the Governor or the Governor in Council by this Act except the powers conferred by sections sixty-one sixty-seven ninety-four and one hundred and four thereof subject or not to any limitations or restrictions as he may think fit and in like manner to alter or revoke any such powers.

Governor may
delegate powers.

107. In the exercise of any powers delegated hereunder to the Executive Government of any Province its proceedings shall be regulated by the provisions of any Act or Ordinance for the time being in force in such Province regulating the proceedings of the Executive Council of such Province in the administration of the affairs thereof but in the exercise of any of the powers delegated hereunder no act or resolution shall have any effect unless the Superintendent and at least two other Members of the Executive Council being also Members of the Provincial Council of such Province be present or if the Superintendent be absent then there shall be present at least three other Members of such Executive Council being also Members of the Provincial Council of the Province: Provided that if at any time after the making of any such delegation and before the revocation thereof the Provincial Council of any Province to the Executive Government of which any such delegation shall have been made shall be dissolved persons who were Members of such Provincial Council at the time of the dissolution thereof shall until the election of the new Provincial Council be deemed for the purpose of this Act capable of being Members of the Executive Council and of taking part in the exercise of the powers delegated hereunder.

Proceedings of
Executive Govern-
ment of Province in
exercise of such
powers how regulated.

108. Every rule and regulation made under this Act shall be laid before both Houses of the General Assembly within twenty-eight days from the issuing thereof if the General Assembly be then in Session and if not then within fourteen days after the commencement of the next Session thereof And no such rule and regulation made under the authority of the delegation of the powers of the Governor or Governor in Council to any Superintendent or Executive Government of any Province or to the Chairman of the County of Westland or to any other person shall become or have the effect of law until the same shall have been approved by the Governor in Council and every such rule and regulation shall be published in the *New Zealand Gazette* and in the *Government Gazette* of the Province in which such rule and regulation shall be intended to have force and effect.

Regulations to be
laid before General
Assembly.

109. Any right title or interest acquired or created under the provisions of this or any preceding Act relating to the occupation of

Mining property to
be a chattel interest.

land within Gold Fields or under any rules and regulations made in conformity therewith shall be deemed and taken in law to be a chattel interest and may be inherited assigned transferred seized and sold under any writ of *feri facias* or other writ of execution or warrant.

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Incapacity to sue without miner's right.

110. Notwithstanding anything hereinbefore contained no person shall be entitled to institute proceedings in any Court holden under "this Act" or in any other Court to recover possession of any land which such person is entitled to or is entitled to occupy by virtue of the provisions of this Act or of any share in such land or to recover damages for or to restrain the occupation of or encroachment upon such land or any part thereof or to obtain any relief as tenant in common joint tenant copartner or co-adventurer against his tenant in common joint tenant copartner or co-adventurer or to recover any interest or part interest in any water race dam or reservoir unless such person shall be the holder of a mining or agricultural lease business license or miner's right.

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Existing interests preserved.

111. Every miner's right license and lease issued prior to the passing of this Act shall continue in force and confer the same rights and privileges and entail the same obligations and penalties as if this Act had not been passed. And all lawful rules and regulations existing at the time of the commencement of this Act shall until annulled or revoked be deemed to be and shall continue in force as rules and regulations under this Act. And nothing herein contained shall in any manner affect any right title interest obligation or penalty lawfully obtained or incurred under or by any Act rule or regulation in force at or previously to the time of the commencement of this Act.

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Revocation of regulations not to affect interests.

112. Any right title or interest acquired or created under any regulation or by-law made in conformity with this Act shall not be in any manner affected by the alteration amendment or revocation of such regulation or by-law.

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Fine may be substituted for forfeiture.

113. In all cases wherein forfeiture is or shall be decreed by this Act or any regulations made or to be made in conformity therewith it shall be lawful to substitute a monetary fine in lieu thereof and to allow thereout a sufficient sum to defray any reasonable expenses incurred by the plaintiff (if any) in the prosecution of this suit.

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Saving Her Majesty's rights.

114. Nothing in this Act contained shall be deemed to abridge or control the prerogative rights and powers of Her Majesty the Queen in respect of the Gold Mines and Gold Fields of the Colony.

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Repealing section.

115. "The Gold Fields Act 1866" and "The Gold Fields Act Amendment Act 1867" and "The Gold Fields Acts Amendment Act 1867" and "The Gold Fields Act Amendment Act 1868" and "The Gold Fields Act Amendment Act 1869" and "The Gold Fields Act Amendment Act 1870" shall be and the same are hereby repealed.

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SCHEDULES.

FIRST SCHEDULE.

FIRST PART.

MINER'S RIGHT. Province of No. District of Date Name To be in force until	18	Province of No. <i>[Insert here sum paid for Miner's Right.]</i> District of Date. MINER'S RIGHT. Issued to _____ under the provisions of "The Gold Fields Act 1871" No. _____ to be in force until _____ 18
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SECOND PART.

CONSOLIDATED MINER'S RIGHT. Province of No. District of Date Name To be in force until	18	Province of No. <i>[Insert here sum paid for Miner's Right.]</i> District of Date CONSOLIDATED MINER'S RIGHT. Issued to _____ of _____ the Manager [<i>or</i> Trustee] of the _____ Company under the provisions of "The Gold Fields Act 1871" to be in force until the _____ day of 18 _____, and to represent _____ Miners' Rights.
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SECOND SCHEDULE.

BUSINESS LICENSE. Province of No. £ District Date Name To be in force until	day of 18	Province of No. £ District of Date <i>[Insert here whether for Six or Twelve Months.]</i> BUSINESS LICENSE. Issued to _____ of _____ under the provisions of "The Gold Fields Act 1871" to be in force until the _____ day of _____ 18
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THIRD SCHEDULE.

In the Warden's Court in the District of _____
 UPON [the application of the Commissioner *or*] reading the Business License [*or* Miner's Right] of A.B. I do order that the building or tenement occupied by [A.B. *or*] him under the said license [*or* right] at _____ in the said District shall be valued by E.F. of &c. and two other persons to be appointed according to law and their award shall be made on or before the _____ day of _____
 Given under my hand and the Seal of the said Court this _____ day of _____ (E.S.) J.W.

FOURTH SCHEDULE.

WE A.B. of &c. C.D. of &c. and E.F. of &c. have valued the building or tenement on land occupied by A.B. under a Miner's Right [*or* Business License] and situate at _____ in the District of _____ at the sum of _____
 In witness whereof we have hereunto set our hands the _____ day of _____
 A.B.
 C.D.
 E.F.

FIFTH SCHEDULE.

FORM OF NOTICE.

(District and date.)

To the Warden at _____
 I hereby give notice that I intend to construct a water race for mining purposes commencing at a point * _____ and terminating * _____
 The length of such race is _____ or thereabouts and its intended course is * _____
 The mean depth and breadth of such race is * _____ and it is capable of carrying _____ sluice-heads of water.

[Signature and address in full of applicant.]

* Here describe precise localities.

Any person objecting to the issue of a license to the above-named applicant must lodge his objections in writing at my office within thirty clear days from the date hereof.

Warden.

SIXTH SCHEDULE.

LICENSE TO CONSTRUCT AND USE A RACE.

[Here insert names] having applied in accordance with "The Gold Fields Act 1871" for leave to construct a water race in length commencing * and terminating * and the conditions of the subsections of section of "The Gold Fields Act 1871" having been complied with I hereby grant to the said persons a license to construct and use the race and to take divert and use sluice-heads of water in accordance with their application.

Warden.

* Here describe precise localities.

SEVENTH SCHEDULE.

THIS deed made the day of between Her Majesty Queen Victoria the lessor [or licensor] of the one part and A.B. the lessee [or licensee] of the other part Witnesseth that in consideration of the rents covenants provisos conditions and agreements in and by this lease [or license] contained or implied on the part of the lessee [or licensee] his executors administrators and assigns Her Majesty the Queen doth hereby grant and demise unto the said A.B. his executors administrators and assigns All that piece or parcel of land [or in the case of a license to mine for gold full and free liberty to mine for gold in through and over all that piece or parcel of land] described in the map or plan on the margin [or back as the case may be] of these presents together with all appurtenances thereto belonging except as hereinafter is mentioned to be excepted for the term of from the day of the date of these presents yielding and paying therefor yearly and every year the rent or sum of £ by payments and it is hereby declared and agreed that this lease [or license] shall be deemed to contain certain exceptions mentioned in the Governor's Proclamation of the day of to wit the exceptions specified in [Here enumerate the exceptions referred to]: And further that this lease [or license] shall be construed to contain and imply certain covenants provisos conditions and agreements on the part of the lessor [or licensor] mentioned in the Governor's Proclamation of the day of to wit the [Here enumerate the covenants &c. referred to]: And further that this lease [or license] shall be construed to contain and imply certain covenants conditions provisos and agreements on the part of the lessee [or licensee] mentioned in the Governor's Proclamation of the day of to wit the [Here enumerate the covenants &c. referred to. Add any special covenants &c.]

In witness whereof the Governor of the Colony of New Zealand by virtue of and in exercise of the powers vested in him by "The Gold Fields Act 1866" and the said lessee have hereto respectively set their hands the day and year above written.

EIGHTH SCHEDULE.

In the District Court for the District of [or the Supreme Court as the case may be].

To [Here insert the names of the several persons in whose favour the decision of the Warden or Warden and Assessors may have been given].

TAKE notice that we the undersigned being desirous of appealing from the decision of Mr. Warden made in a proceeding before him [or before Mr. Warden and Assessors] on the day of at and in which you were complainants [or defendants as the case may be] and we the undersigned were defendants [or complainants as the case may be] and which decision was to the following effect [Here insert minute of decision appealed against] intend to appeal to the District [or Supreme Court as the case may be] to be holden at on the day of next against such decision and that the grounds of appeal against such decision are as follows—

[Here state the grounds of appeal each ground to be the subject of a separate paragraph and no general words such as "and other grounds" shall be inserted.]

You are therefore called upon to attend at the Warden's Court sitting at on a day to be fixed by the Warden thereof within seven days from the service of this notice for the purpose of stating a special case as by law provided.

A.B. } [Names of parties appealing.]
C.D. }