

(Hon. Mr. Vogel.)

Gold Mining Districts.

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A BILL INTITULED

Title. AN ACT to provide for the Establishment and Management of Gold Mining Districts.

Preamble. WHEREAS it is expedient to make special provision for the regulation of Gold Mining in certain districts and the administration of justice therein :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows :—

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

Proclamations how published. 2. Proclamations under this Act may be published in the General Government *Gazette* or the Government *Gazette* of the Province in which the Gold Mining District is situate to which they refer.

Interpretation. 3. In the construction of this Act the words and expressions following shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction :—

"Person" shall include corporations and incorporated companies.

"Claim" shall mean that portion of land which is taken up for mining purposes under the eighth section of this Act.

"Licensed holding" shall mean that portion of land for which a license is granted for mining purposes under this Act.

"Licensee" shall include executors administrators and assigns and in the case of a corporation successors and assigns.

"Gold" shall include 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 word "mine" shall include any mode or method of working whereby the soil or earth or any rock or stone may

be removed or otherwise dealt with for the purpose of obtaining gold.

5 "Mining purposes" and "mining operations" shall include mining for gold and the erection of machinery and the construction of works connected therewith and the doing of all lawful acts incident or conducive thereto.

"Business" shall mean and include vending or disposing of goods wares and merchandise whether in shops or by hawking or otherwise.

10 "Inspector" shall mean the officer appointed under this Act to perform certain duties specified herein.

"Gold Mining District" shall mean a Gold Mining District constituted under this Act.

"Judge" shall mean a Judge of the Supreme Court.

15 "Court" shall mean a Warden's Court constituted under this Act.

"District" shall mean a Gold Mining District constituted under this Act.

20 "Crown land" shall mean and include demesne and Waste Lands of the Crown and all other land over which the Governor shall by lease agreement or otherwise have obtained power to authorize mining for gold.

25 "Water race" shall include any artificial channel or ditch for the conveyance of water howsoever constructed and also the natural bed of any creek or gully through which water is diverted for mining purposes.

"Dam" and "reservoir" shall mean any natural or artificial depository for water.

"Revenue" shall include rents fees fines and penalties received in any district under this Act and gold duty levied on gold produced in any such district.

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PART I.

CONSTITUTION OF GOLD MINING DISTRICTS.

35 4. It shall be lawful for the Governor from time to time by Proclamation to constitute and appoint any district to be a Gold Mining District under this Act to assign boundaries to such district to enlarge contract or otherwise alter such boundaries and to declare by what local name every such district shall be designated.

Governor may constitute Gold Mining Districts.

40 5. It shall be lawful for the Governor in the Proclamation by which a Gold Mining District may be constituted under this Act and from time to time by Proclamation subsequently issued either by general or particular description to exempt from occupation for mining purposes or for machine sites or for business or for residence any land within the boundaries of any Gold Mining District and from time to time any such exemption to revoke and the limits and extent of the and therein comprised to alter as he may think fit.

Land may be exempted from such districts.

45 6. The Governor may also if he think fit by Proclamation from time to time abolish any such district and thereupon the same shall cease to be a Gold Mining District under this Act: Provided that all rights titles and interests existing at the time of any such abolition shall be unaffected thereby and shall remain exist and continue as though such abolition had not been proclaimed.

And abolish them.

PART II.

EXPLORATION AND OCCUPATION.

Crown lands within district open to exploration and occupation.

7 Subject to the provisions hereinafter contained and to such regulations as may be made as hereinafter provided all Crown lands within any such district not exempted from occupation as aforesaid shall be free and open to all persons for exploration and occupation. 5

Claims.

Claims may be marked out.

8 Any person desiring the exclusive occupation of land for mining purposes within any district shall mark out the same by causing to be erected at every angle thereof a post not less than three inches square or three inches in diameter and standing not less than two feet above the surface of the ground and any piece of land so marked out shall be called a claim: Provided that when an angle cannot be so marked on account of the nature of the ground the post may be placed at the nearest practicable point. 10 15

Form of claims.

9 A claim may be of any form provided that it shall not exceed in length twice its breadth but unoccupied land of irregular shape that may be situate between two or more claims or licensed holdings may be taken up irrespective of length or breadth. 20

Rights of claimholder.

10 When a claim is so marked out the owner thereof shall except as against any person who may then be in lawful occupation of the same be entitled to keep possession thereof for gold mining purposes for so long not exceeding twenty-one years as he shall continue to employ thereon for such purposes at least one man for every fifteen thousand square feet of land comprised in the claim: Provided that such owner shall not be required to employ any men on his claim until the expiration of ten days after the claim has been marked off and if during such ten days he shall make application for a license as next herein provided he shall not be required to employ any men thereon until such application has been disposed of by the Warden. 25 30

Proceedings for forfeiture of claims how taken.

11 Proceedings to enforce forfeiture of claims shall be taken only by the Inspector and the provisions hereinafter contained in respect of forfeiture of land held under license shall be followed in respect of claims so far as the same can be conveniently applied. 35

Licensed Holdings.

Claimholder desiring a license to make application.

12 The owner of any claim desiring to obtain a license under this Act shall lodge an application for the same together with a plan of the land applied for at the Warden's office where every such application shall be recorded in the order in which it is received in a book to be kept for that purpose together with the day and hour of the receipt thereof. 40

Deposit of money to be made.

13 The applicant shall at the same time deposit with the Warden a sum after the rate of one pound sterling for every fifteen thousand square feet of land comprised in the application to be dealt with as hereinafter provided and a further sum of five pounds in respect of each application the balance of which after deducting the expense to be incurred in advertising and otherwise will be returned to the applicant. 45

Notice of application to be given.

14 The Warden shall give ten clear days' notice of the application by newspaper advertisement and shall therein name a day on which the application will be granted if no valid objection be in the mean time made such day not being less than thirty or more than sixty days after the day on which the application is lodged. 50

How objections to be made.

15 All objections shall be made in writing stating the grounds of objection and shall be lodged at the Warden's office not less than seven clear days before the day appointed for hearing. 55

Warden to appoint a day of hearing.

16 If any objection be made the Warden shall appoint a day for hearing the applicant and the objector.

17 If there be no objection or if no objection made be substantiated the Warden shall grant to the applicant or to a person appointed by him a license in the form set forth in the First Schedule to this Act.

No objection sustained license to be granted.

18 Such license shall give to the licensee for so long a time not exceeding twenty-one years as he shall continue to fulfil the conditions of the license an indefeasible right to all gold within the boundaries of the land therein comprised and an indefeasible and exclusive right to dig and mine for gold therein and thereon and dispose of the same to erect machinery on such land and to construct works connected therewith and to do all lawful acts incident or conducive to the carrying out of those objects.

Effect of license.

19 Applications and objections thereto shall be made and notice given in such form and manner as shall be prescribed in that behalf by regulations to be made under this Act and if no such regulations be made and in operation then in such form and manner as the Warden shall from time to time require.

Form of applications and objections.

Claims and Licensed Holdings.

20 Subject to any regulations to be made in that behalf permission to hold a claim or licensed holding without working the same may be granted by the Warden for such time as may be shown to be reasonable having due regard to the grounds on which such permission is applied for and all the circumstances of the case: Provided that if such permission be obtained by false representation it may be cancelled by the Warden.

Permission may be granted to hold a claim or licensed holding unworked.

21 If the owner of any claim or licensed holding shall fail to maintain the posts as hereinbefore required he shall forfeit and pay for every such omission any sum not exceeding ten pounds.

Penalty for not maintaining posts.

22 And if posts are not so maintained and any person shall commence to work or mine on any land held as a claim or under license he shall not be liable to damages: Provided that he cease to work and mine as soon as the posts are replaced and notice given to him not to trespass and in such case he shall be entitled to recover from the owner of the claim or licensed holding the value to such owner of the work done by suit in the Warden's Court.

If posts not maintained no damages to be recovered for trespass.

23 The surface of any land upon which any house or other building shall be lawfully standing and in actual use or occupation or which shall be lawfully and bona fide used as a yard garden orchard cultivated field water race dam or reservoir shall not be taken possession of or interfered with by owner of any claim or licensed holding without first obtaining an order from the Warden's Court authorizing the same and such order shall not be granted unless it be first proved to the satisfaction of the Court that the land is bona fide required for mining purposes and that the compensation to be fixed as hereinafter provided has been paid.

Houses &c. not to be interfered with without Warden's order and compensation paid.

24 Such compensation shall be granted for improvements only and not in respect of the value of the land and the amount thereof shall be ascertained and fixed by the Warden's Court and the cost of such ascertaining and fixing shall be in the discretion of the Court.

Compensation for improvements only to be fixed by Court

25 Every person lawfully occupying the surface of land held under this Act for mining purposes whose property shall be damaged by mining operations carried on thereunder shall be entitled to recover compensation for such damage.

Compensation to be paid for damages by mining.

Conditions of Licenses.

26 The conditions upon which every license shall be held are as follows:—

Conditions on which licenses held.

- (1.) That the licensee pay to the Warden every year during which he shall occupy the land comprised in the license a

rent after the rate of one pound sterling for every fifteen thousand square feet of land comprised in the license.

- (2.) That the first payment is due on the day on which the application is lodged with the Warden and every subsequent payment on the same day in every subsequent year. 5
- (3.) That the licensee shall carry on mining operations in an efficient and workmanlike manner and shall employ in such operations after the rate of one man at least being an able and competent workman or miner for every fifteen thousand square feet of land comprised in his license: Provided 10
that when from any cause the full number of men cannot be reasonably and advantageously employed a fewer number shall be sufficient if such fewer number be the greatest that can be reasonably and advantageously employed.

Water Races Dams and Reservoirs. 15

Notice to be given by persons desiring to construct water race &c.

27 Every person desiring to construct a water race dam or reservoir for the diversion and use of water shall give notice thereof in writing to the Warden and to all persons whose interests may be thereby affected.

What notice shall state as regards water race.

28 As regards a water race such notice shall state the mean breadth and depth of the proposed race and the quantity of water it is capable of carrying and copies of such notice shall be posted and maintained for fourteen days at the source whence it is proposed to obtain the water and at the proposed termination of the race and the intended course shall be included by pegs not less than two inches square or two inches in diameter or by large stones marked with a broad arrow and such pegs or stones shall be placed not more than two hundred yards apart. 25

What as regards dams and reservoirs.

29 As regards a dam such notice shall state the proposed height and as regards a reservoir the proposed size and depth and the site of the dam or reservoir shall be indicated by pegs not less than two inches square or two inches in diameter. 30

How proceedings to be taken.

30 The proceedings to be taken on such applications shall be in conformity with sections fourteen fifteen sixteen and seventeen of this Act except that the license shall be in the form set forth in the Second Schedule to this Act. 35

Form and effect of license.

31 Such license shall give to the licensee an indefeasible right to the exclusive use of the race dam or reservoir and the water in respect of which the same is constructed and of so much land on both sides as is sufficient to secure the safety of the race dam or reservoir for such time (not exceeding twenty-one years) as he shall fulfil the conditions on which the same is granted. 40

Conditions of license.

32 The conditions on which any such license shall be granted shall be as follows:—

- (1.) The construction of the race dam or reservoir must be commenced within one calendar month from the issue of the license and must continue with all reasonable diligence until completed. 45
- (2.) The race dam or reservoir shall be used for the purposes for which it is constructed without interruption exceeding sixty days in any year commencing on the first day of January following its completion. 50
- (3.) The licensee shall keep the race dam or reservoir in repair and shall make an efficient bridge where any road in ordinary use crosses the water of the race dam or reservoir upon being so required by the Inspector. 55
- (4.) The licensee shall pay an annual sum of five pounds in advance the first payment to be made on the day on which the license is granted and every subsequent payment to be made on the same day in every subsequent year.

33. Whenever any water diverted and used under any license as aforesaid shall be required for any public use or purpose it shall be lawful for the Governor to revoke such license and cause the water to be restored to its natural channel.

Licenses may be revoked.

5 34 In such case the licensee shall be entitled to compensation for the loss which he shall thereby sustain and the amount thereof shall be fixed by arbitration: Provided that the licensee and a person acting by authority of the Governor in that behalf can agree on the terms of such arbitration and if not such compensation shall be fixed by a judgment of the Warden's Court in a suit in which the Inspector shall be the nominal defendant.

Compensation how to be fixed.

10 35 The Arbitrators or Court as the case may be shall take into consideration all the circumstances of the case and shall award compensation for the losses which the licensee will sustain by the revocation of his license.

All the circumstances to be taken into consideration.

15 36 When the compensation is fixed as aforesaid it shall be forthwith paid by the Governor out of the revenue of the District within which the race dam or reservoir is situate in respect of which compensation is granted.

Compensation to be paid out of revenue.

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Forfeitures.

25 37. If any licensee of land water race dam or reservoir shall fail to pay any license fee when it becomes due or within sixty days thereafter or if he shall fail to comply with any other of the conditions on which he holds his license such license shall be liable to be forfeited.

Conditions not complied with license liable to forfeiture.

30 38 In such case the Inspector shall give notice to the licensee specifying the conditions of the license that have not been complied with and warning the licensee that at the expiration of ten days he will proceed for a forfeiture. Such notice may be served personally on the licensee or some one of them when there are more than one if he or they can conveniently be found and if not such notice shall be posted on some conspicuous part of the land comprised in the license.

Inspector to give notice that he will proceed for a forfeiture.

35 38a. As soon as conveniently may be after the expiration of the ten days the Inspector shall investigate the case and after hearing the licensee if he shall state in writing his desire to be heard and making reasonable allowance for efforts made in the meantime by the licensee to fulfil the conditions of the license shall decide thereon in a summary way. The Inspector may if he think fit declare a part only of the land comprised in the license to be forfeited.

Inspector to investigate and decide summarily.

40 39. When such decision shall be adverse to the licensee the Mining Inspector shall immediately thereon cause a notice to be served on the licensee or some one of them when there are more than one if he or they can be conveniently found and if not such notice shall be posted in some conspicuous place upon the land comprised in the licence. Such notice shall convey the decision of the Mining Inspector and shall briefly state the grounds thereof.

Notice of decision to be given.

45 40. If no notice of appeal be given as next hereinafter provided the license shall be deemed to be forfeited and all right title and interest of the licensee shall thenceforth be determined and void.

If no notice of appeal license to be void.

50 41. If within ten days after the service or of the posting of such notice the licensee against whom the decision has been given or any person acting on his behalf give notice in writing to the Inspector and to the Warden that he is dissatisfied with the decision of the Inspector and appeals against it the Warden shall appoint a time and place for hearing such appeal of which the licensee shall have reasonable and timely notice and at such time and place the Court shall proceed to investigate the case anew and decide on the whole facts of the case.

Licensee may appeal to Warden.

55 42. In lieu of declaring a forfeiture it shall be lawful for the Court to substitute a monetary fine except in cases in which there has been a wilful and continuous breach of any condition of the license.

Fine may be substituted for forfeiture.

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If only portion of land forfeited new license to be granted for remainder.

43. If a portion only of the land comprised in any license is declared to be forfeited a new license for the remaining portion shall be granted by the Warden to the licensee and such new license so far as regards such remaining portion shall have the same effect and be subject to the provisions of this Act in like manner as the original license.

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Appeal from Warden to Judge of Supreme Court. Terms.

44. From the decision of the Warden's Court the licensee may appeal to a Judge of the Supreme Court in Chambers: Provided that notice of such appeal stating the grounds thereof be given to the Inspector and to the Warden within ten days from the day on which his decision is given and that the appellant enter into a bond to the Registrar of the Supreme Court with one or more sureties satisfactory to the Warden in the penalty of twenty-five pounds to enter his appeal within ten clear days and pay all costs which shall be adjudged against him by the Judge or Supreme Court: but the appellant in lieu of such bond may deposit with the said Registrar the sum of twenty-five pounds.

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Report on case and notes of evidence to be transmitted to Registrar.

45. On compliance by the appellant with the foregoing provision the Warden shall transmit to the Registrar a report of the case with the notes of the evidence taken before him and the Judge shall after hearing the parties or their solicitors confirm or set aside the decision or direct a new trial or make such other order therein as appears to him agreeable to justice and in conformity with law: Provided that before making an order the Judge may require any question to be fully argued before and decided by the Supreme Court.

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Judge may order controverted facts to be tried by a jury.

46. If the Judge shall consider that the case involves a question of controverted fact on which he may be of opinion that the verdict of a jury should be taken he may make an order for the trial of the question and issues shall be framed by the appellant and settled as is usual in ordinary actions in the Supreme Court.

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On finding by jury Judge shall pronounce judgment.

47. Upon the finding of the jury the Supreme Court shall pronounce judgment on the whole case including the award of costs to either party as it may think fit.

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Decision declaring forfeiture to render license void.

48. So soon as a decision declaring a forfeiture of a license shall be given and take effect either by the Inspector without appeal or the Warden's Court without appeal or by the Judge or the Supreme Court the license shall be void and the licensee and all persons holding under him shall cease to have any interest in the land comprised in the license and the same shall be open to applicants in manner hereinafter provided.

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Licensee may remove plant &c.

48a. Provided that the licensee may at any time within thirty days after the declaration of forfeiture takes effect remove any plant machinery engines tools or materials but no timber used in supporting the shafts drives galleries or adits of any mine nor materials used in the construction of any water race dam or reservoir and if any person shall offend against this proviso he shall forfeit and pay any sum not exceeding one hundred pounds in addition to the value of the injury done by such removal.

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Warden may remove persons from forfeited land.

49. The Warden shall have power by warrant under his hand addressed to the Bailiff of his Court or the Officer in charge of the Constabulary to remove therefrom any person in possession of land adjudged to be forfeited.

How forfeited land to be dealt with.

50. As soon as forfeited land is open to applicants as aforesaid the Warden shall give notice by newspaper advertisement and by a notice to be posted on the land that application may be made to him in writing for the same upon a day to be fixed in such notice not being less than ten days nor more than twenty days from the day of publishing the notice or posting it on the land whichever may be last done.

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If more than one application to be sold by auction.

51. If on such day there be more applications than one for the same land the Warden shall fix a day for the applicants to attend at his office and on such day he shall sell the right of occupation to the applicant who shall be the highest bidder. If there be but one applicant or if no more than one shall attend as aforesaid the right of occupation

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shall be given to such applicant and if there be no applicant the land shall be open to any person under this Act.

- 5 **52.** When any forfeited land is taken up under the last preceding section it shall be marked out as specified in section number eight of this Act and shall thenceforth be subject to all the provisions of this Act in respect of claims.

Forfeited land taken up shall be marked out and be a claim.

Machine Business and Residence Sites.

- 10 **53.** Whenever any person shall require a site for machinery or for carrying on business or for residence he shall apply to the Warden to grant the same.

Application for machine site &c. to be made to Warden.

54. Such application must be in writing and must describe the situation area and boundaries of the land applied for.

Application to be in writing and describe situation &c.

- 15 **55.** As soon as conveniently may be thereafter the Warden shall make such inquiries as he may think fit in order to satisfy himself whether there is any objection to the granting of the application.

Warden to make inquiries.

56. If there be no objection the Warden shall grant a license in the form set forth in the Third Schedule to this Act: Provided that no machine site shall exceed one acre no business site half an acre and no residence site one quarter of an acre.

No objection license to be granted.

- 20 **57.** Such license shall give the licensee for so long as he may require the same not exceeding twenty-one years the exclusive right to the possession of the surface of the land therein described for the purpose therein mentioned and for no other: Provided that the licensee pay the annual sums hereinafter mentioned.

Effect of license.

- 25 **58.** The sums payable for the above-mentioned sites shall be as follows:—

Sums payable for licenses.

For a machine site ten pounds.

For a business site five pounds.

For a residence site one pound.

- 30 **59.** Such sums shall be payable annually in advance and the amount of the first payment shall be deposited with the Warden at the time the application is made to be retained as the first annual payment if the application is granted and to be returned to the applicant less one pound or in case of a residence site ten shillings to be retained for
- 35 the cost of the inquiry by the Warden if the application is not granted. Subsequent annual payments shall be due and payable to the Warden on the same day in every year as that on which the application is granted.

When to be paid and how dealt with.

- 40 **60.** If the sum from time to time due in respect of any site is not paid when due the Inspector may sue for the same: If any site be used for a purpose not specified in the license or for three months be unused for such purpose or unoccupied or if the sum due in respect of the same be not paid within two calendar months all rights under the license shall be forfeited subject as next hereinafter provided and the
- 45 Inspector shall sue in the Warden's Court for possession.

If sums not paid Inspector may sue when license forfeited.

- 61.** At the hearing of such suit if the Warden's decision be against the licensee the Warden may either award a pecuniary penalty instead of enforcing forfeiture or he may issue a warrant under his hand to remove the licensee from possession. The costs of proceedings
- 50 shall be in the discretion of the Warden.

Pecuniary penalty substituted for forfeiture.

62 The several sections in reference to machine business and residence sites numbered from fifty-three to sixty-one both inclusive shall not apply to the land comprised within the towns of Shortland and Grahamstown as defined in the Fourth Schedule to this Act.

Sections 53 to 61 not applicable to Shortland and Grahamstown.

- 55 *General.*

63 Every license issued under the authority of this Act shall be signed by the Warden and he shall affix thereto the seal of the Warden's Court. Such signing and affixing shall be in the presence of one witness who shall attest the same.

Licenses to be signed and seal of Court affixed.

Rights &c. to be
chattel interests.

64 Every right title and interest acquired or created under the provisions of this Act or under any 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 or warrant of execution.

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Inspector may
inspect mines.

65 It shall be lawful for the Inspector or any person whom he may appoint in writing at all convenient times to inspect any mine and any workings connected therewith and for that purpose to use all convenient means and appliances belonging to the mine by which such inspection may be facilitated and the owner and manager of the mine and all miners workmen and others employed by such manager or owner shall afford such assistance as may be reasonably required for facilitating such inspection.

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Penalty for obstruct-
ing Inspector.

66 Every person who shall refuse to permit the use of such means and appliances or shall refuse to render such assistance or shall obstruct the Inspector or the person so appointed by him as aforesaid in making such inspection shall forfeit and pay for every such offence a penalty not exceeding fifty pounds.

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PART III.

ADMINISTRATION OF JUSTICE.

Governor may
establish Wardens'
Courts.

67 It shall be lawful for the Governor by Order in Council to establish for any Gold Mining District constituted under this Act a Warden's Court for the administration of justice therein and any such Court to abolish.

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And appoint
Wardens.

68 The Governor shall appoint fit and proper persons to be Wardens of such Courts who shall hold office during the Governor's pleasure. The Court may be held before one Warden although more than one Warden may have been appointed for the same Court.

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Warden interested
not to adjudicate.

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

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Jurisdiction of
Courts.

70 Every such Court shall have jurisdiction to hear and determine all suits and complaints cognizable by Courts of civil or criminal jurisdiction which may arise within the Gold Mining District for which such Court is constituted concerning the following matters that is to say:—

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- (1.) Forfeitures for non-compliance with this Act and any regulation made thereunder from time to time in force.
- (2.) Boundaries of land held or occupied under this Act and encroachments upon and injuries to the same.
- (3.) Dams water-races streams watercourses wells ponds and reservoirs and encroachments upon and injuries to the same.
- (4.) Roads tramways railroads and fences and encroachments upon and injuries to the same.
- (5.) Partnerships relating to gold mining.
- (6.) Breaches of laws rules and regulations for the time being in force relating to gold mining punishable by summary conviction.
- (7.) And generally concerning contracts torts questions and disputes of any kind relating to gold mining.

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Wardens to deter-
mine questions of
law and fact.

71 Subject to the provisions hereinafter contained relating to appeals Wardens shall determine all questions as well of fact as of law.

- 5 **72** Every Court in cases within its jurisdiction shall have power to enforce contracts to award damages to dissolve partnerships to grant injunctions to impose penalties to cause gold improperly or unlawfully removed to be summarily seized and restored to summon witnesses to award costs and generally to give such judgments and make such orders as may be necessary or proper in all matters within its jurisdiction. Power of Court to enforce contracts award damages &c.
- 10 **73** Every witness duly summoned who shall fail to attend without a reasonable cause in the opinion of the Court shall be liable to a fine not exceeding five pounds to be imposed by an order of Court. Witnesses not attending liable to be fined.
- 15 **74** If previous to or during the hearing of any case it shall appear to the Court or any Warden thereof that it would be expedient that an inspection or survey and plan should be made in order the more satisfactorily to determine the question at issue it shall be lawful for such Court or Warden to cause such inspection to be made by a Warden or by any other person or to order either party to cause a survey and plan to be made and produced and the costs in either case shall if the Court think fit at the hearing be made costs in the cause. Inspection may be ordered.
- 20 **75** The Court may in any case make orders for staying proceedings until security be given for costs or for granting time to the plaintiff or defendant to proceed in the prosecution or defence of the suit and may also from time to time adjourn any Court or the hearing of any cause in such manner and on such terms as to payment of costs or otherwise as to the Court may seem fit. Court may stay proceedings in certain cases.
- 25 **76** It shall be lawful for the Court or any Warden thereof whenever it shall be made to appear to be proper to do so to order the working of any claim or licensed holding affected by any matter in dispute to be suspended until such matter shall have been investigated or adjudicated on and if any person having been ordered to suspend the working of any claim or licensed holding shall work such claim or licensed holding he shall be liable to a fine or penalty not exceeding fifty pounds to be imposed by an order of the Court. Court or Warden may order workings to be suspended.
- 30 **77** Subject to the provisions hereinafter contained relating to appeals every order or judgment shall be final between the parties but the Court shall have power to nonsuit the plaintiff and shall also in any case have power to grant a rehearing upon such terms as it shall think fit and in the meantime to stay proceedings. Subject to appeal decision to be final.
- 35 **78** Every judgment and the time (if any) limited for satisfying the same shall be entered in a register to be kept for that purpose and no other record thereof shall be necessary. Judgment to be entered in a register.
- 40 **79** No order judgment conviction or other proceeding shall be void or quashed or vacated for want of form. No order void for want of form.
- 45 **80** Subject to the special provisions in this Act in that behalf any judgment decision and order given or made by any Warden's Court in civil cases shall be carried out and enforced in accordance with the law for the time being in force regulating the proceedings in civil cases in Resident Magistrates' Courts and every conviction in criminal cases shall be carried out and enforced in accordance with the law for the time being in force for regulating summary proceedings before Justices of the Peace. How judgments and convictions to be enforced.
- 50 **81** Every warrant order or other process issued by any Court under the authority of this Act may be executed and put in force in any part of the Colony by the Bailiff of the Court or by the Bailiff of any Resident Magistrate's Court or by any other person to whom the same may be specially directed. Warrant &c. may be executed in any part of Colony.
- 55 **82** No suit or complaint shall be dismissed because of any informality either in the summons or any other proceeding nor shall any objection be taken or allowed to any summons complaint or proceeding for any alleged defect or misnomer or inaccurate description or on the No suit to be dismissed on account of informality.
- 60

ground that the plaintiff or complainant shall appear at the hearing to be entitled to different relief than that sought by the summons or for any variance between such summons and the evidence adduced but the summons shall be amended by the Court so that the subject-matter in dispute between the parties shall plainly appear and the Court shall proceed to adjudicate according to the rights of the parties. 5

If defendant misled hearing may be adjourned.

83 Provided that if it shall appear upon the hearing of the case that the defendant has been deceived or misled by the summons or that injustice would be done by proceeding at once with the case it shall be lawful for the Court on such terms as to costs or otherwise as it shall think fit to adjourn the further hearing of the case to some future day. 10

Order may be enforced by commitment.

84 When a lawful order is made by a Warden's Court or by a Warden thereof not for the payment of money but for the doing of some other act or for omitting to do some act any person acting in disobedience to such order shall be liable to be imprisoned and the Court or Warden as the case may be may issue a warrant of commitment accordingly. 15

Place and time of detention.

85 The person so offending shall be taken to some convenient gaol to be named in such warrant and delivered to the keeper thereof and he shall be there detained until he give security to the satisfaction of the Warden that he will cease to do the act prohibited or will do the act required or until the Warden shall make an order for his release: Provided that no person shall be imprisoned under this section for any term exceeding three calendar months. 20

Person guilty of contempt may be taken into custody.

86 If any person shall wilfully insult any Warden or any Assessor or any officer of the Court during his sitting or attendance in such Court or shall wilfully interrupt the proceedings or be guilty in any other manner of contempt in the face of the Court it shall be lawful for the Bailiff or any Constable 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. 25

May be discharged or committed to prison.

87 Instead of discharging any offender at the rising of the Court it shall be lawful for the Warden if he shall think fit by a warrant under his hand to commit any such offender to prison for any term not exceeding one hundred and twenty hours or to impose on any such offender a fine not exceeding five pounds for any such offence and in default of payment thereof to commit the offender to prison for any term not exceeding one hundred and twenty hours unless the fine be sooner paid. 30

Warden may make regulations.

88 The Warden or if more than one the senior Warden may from time to time make such regulations as he may think fit for the orderly transaction of the business of his Court. 35

Constables to assist Warden.

89 All Constables and Peace Officers shall within their several localities aid and assist the Warden in the execution of any duties imposed by any of the sections of this Act. 40

Protection to Wardens.

90 Every Warden acting in the execution of his duty under this Act shall be entitled to the same protection as Justices of the Peace under any law for the time being in force to protect Justices of the Peace from vexatious actions for acts done by them in the execution of their office and "The Justices Protection Act 1866" and all Acts passed in substitution for or in amendment or alteration of the same shall apply to Wardens in like manner as to Justices of the Peace so far as the same can be so applied. 45

Appeals.

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Parties may appeal to Supreme Court.

91. If either party in any suit shall be dissatisfied with the determination or decision of the Court in point of law or upon the admission or rejection of evidence such party may appeal to the Supreme

Court provided that he shall within ten days after the decision to which he objects give notice of appeal to the other party or his solicitor and shall deposit with the Registrar of the Supreme Court the sum of twenty pounds to abide the costs of such appeal.

5 92. The Supreme Court may either order a new trial upon such terms as it thinks fit or order judgment to be entered in the Warden's Court for either party and may make such order with respect to costs of the appeal as such Court may think fit and such judgment or order shall be final. Court may order new trial &c.

10 93. The appeal shall be in the form of a case agreed on by both parties or their solicitor and if they cannot agree the Warden upon being appealed to by either party shall settle the case. The case when agreed to or settled shall be signed by the Warden and transmitted by him to the Supreme Court. Form of appeal.

15 94. The several Judges of the Supreme Court in their respective districts shall make if they think fit general rules for regulating proceedings on appeals under this Act and the costs and fees to be paid in respect of the same and until such rules are made such proceedings and fees shall be as nearly as may be in conformity with the rules regulating appeals from District Courts. Judges of Supreme Court may make rules.

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PART IV.

RULES AND REGULATIONS.

95. It shall be lawful for the Governor subject to the provisions of this Act from time to time to make alter amend and revoke rules and regulations for all or any of the purposes following:— Governor may make rules and regulations.

(1.) For prescribing the mode times and places for the issue of miners' rights.

(2.) For the management and administration of the affairs of Gold Mining Districts constituted under this Act.

30 (3.) For regulating the use and occupation of land held under this Act and mining operations therein and thereon.

(4.) For enabling owners of claims and licensed holdings to make levels adits drives or tunnels through other Crown lands whether held as claims or licensed holdings and for prescribing 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.

35 (5.) For prescribing the manner in which and with what rights and obligations any claim or licensed holding or any race dam or reservoir or any water diverted or any machine business or residence site shall be held occupied used worked or enjoyed.

40 (6.) For regulating the construction maintenance and use of water races dams and reservoirs.

45 (7.) For regulating the felling and cutting of timber and the fees to be paid in respect of the same.

(8.) For the protection of paths roads and streets and for regulating mining thereunder.

50 (9.) For granting protection to persons desirous of temporarily ceasing to work their claims or licensed holdings.

(10.) For the preventing nuisances in and about residences and places of business held under this Act and for cleansing and making clean the same.

- (11.) For preventing the defiling and wasting of water used for domestic purposes and the setting apart springs streams and other depositories of water or any portion thereof for domestic purposes.
- (12.) For regulating the filling up of shafts pits holes and excavations and fencing the same. 5
- (13.) For regulating the procedure and practice in Courts established under this Act and for fixing the fees to be taken in respect of proceedings therein and for taxing the costs of Solicitors practising in such Courts. 10
- (14.) For establishing registers for registering all rights titles and interests held under or created by this Act and all assignments and transfers thereof and all encumbrances and liens thereon and discharges thereof.
- (15.) And generally for facilitating and more effectually carrying into execution the objects of this Act especially in cases in which no provision or no sufficient provision is made for the same. 15
- (16.) For fixing the fees to be paid under this Act and any regulations made thereunder. 20

Rights acquired not to be affected by revocation of regulations.

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

Punishment for breach of rules and regulations.

97. If any person shall commit any breach whether by way of omission or commission of any of the rules and regulations made under the authority of this Act he shall be liable for every such breach to forfeit and pay such fine or penalty as shall be fixed by such rules and regulations not exceeding ten pounds for the first offence and twenty pounds for any subsequent offence. 25

Rules made by Order in Council of 7th March 1868 to be first rules for Warden's Court this Act.

98. The rules regulating the procedure and practice in Wardens' Courts and the fees to be taken therein made by Order in Council dated the seventh day of March one thousand eight hundred and sixty-eight and published in the *New Zealand Gazette* of the ninth day of March one thousand eight hundred and sixty-eight shall be the first rules for regulating the practice and procedure in Wardens' Courts under this Act and the fees payable in respect of the same subject however to alteration amendment and revocation in like manner as though the said rules had been made and fees fixed by the Governor in pursuance of the powers hereinbefore contained. 30

PART V.

MISCELLANEOUS.

Inspectors.

Inspectors to be appointed. Their duties.

99. For every district constituted under this Act the Governor shall appoint some fit and competent person to be Inspector whose duty it shall be from time to time to visit and inspect the mines within his district and generally to see that the provisions of this Act and any regulations made thereunder are complied with and carried out: And all proceedings taken in any Court under an Act in respect of forfeiture shall be taken and carried on in the name of the Inspector. 45

Inspector's costs to be paid out of gold revenue.

100. All costs incurred by the Inspector or which may be awarded against him in any proceedings under this Act shall be paid out of the revenue of the district in which the land the subject of the proceedings is situate and the Inspector shall not be personally liable for the same. 50

Miners' Rights and Business Licenses.

101. Documents not transferable to be called "Miners' Rights" shall be issued in the form set forth in the Fifth Schedule to this Act to any person applying for the same upon payment of the sum of 5 twenty shillings.

Miners' rights to be issued.

102. Documents to be called "Business Licenses" shall be issued in the form set forth in the Sixth Schedule to any person applying for the same on payment of the sum of five pounds for a yearly license three pounds for a half-yearly license, and two pounds for a quarterly 10 license.

Business licenses may be issued.

103. "Miners' Rights" and "Business Licenses" shall be dated on the day on which they are issued and shall respectively be in force for twelve calendar months from the date thereof.

When dated and how long in force.

104. Every person not being the holder of a miner's right who shall 15 be engaged or employed in mining operations or who shall occupy for any purpose whatever any land in any Gold Mining District constituted under this Act shall be liable for the first offence to a penalty not exceeding five pounds for a second offence to a penalty not less than five and not exceeding ten pounds and for any subsequent offence to 20 a penalty not exceeding ten pounds with imprisonment in some gaol for a term not exceeding two calendar months.

Persons mining without miners' rights liable to penalties.

105. No person shall be entitled to institute proceedings in any Court whatever in respect of any right title or interest acquired or created 25 under this Act or in respect of any encroachment thereon or injury thereto unless he shall at the commencement of such proceedings be the holder of a miner's right then in force issued under this Act or under a Gold Fields Act in force in the Gold Mining District constituted under this Act prior to this Act coming into operation therein.

Persons not holders of miners' rights not to institute proceedings.

106. It shall not be necessary for any purpose whatever for any 30 shareholder in any incorporated company to take out or be the holder of a miner's right in respect of any shares held by him in such company.

Shareholders in incorporated company not required to take out miner's right.

Revenue.

107. All rents fees fines and penalties which shall be payable under this Act or any regulations made thereunder shall be paid to the 35 Receiver of Gold Revenue and shall except as hereinafter provided be applied towards the expenses of carrying this Act into execution in the Gold Mining District in which they arise and in the construction and repair of works of public utility and convenience therein.

Rents fees &c. payable to Receiver and how to be appropriated.

108. Provided that nothing in this Act contained shall be construed 40 or deemed to alter or affect "The Auckland Gold Fields Proclamation Validation Act 1869" or any of the provisions of the several agreements therein recited: And that rents arising in respect of land occupied under licenses issued under this Act shall for the purposes of the said 45 agreements be deemed to be money arising from miners' rights.

Act not to affect "The Auckland Gold Fields Proclamation Validation Act 1869." Rents of land to be deemed money from miner's rights.

Affidavits.

109. Affidavits to be used in Courts to be held under this Act may be sworn before the Warden of any Warden's Court in the Colony or before any person authorized to take affidavits in the Supreme Court or before any Justice of the Peace.

Affidavits how sworn.

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Mining on Native Land.

110. 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 may think fit a license to be called a "prospecting license" 55 authorizing the person therein named with the consent of the owner to prospect and search for gold on any land specified in such license not being within any Gold Field or Gold Mining District.

Prospecting license may be issued.

Penalty for mining
on Native land.

111. Any person not being the owner of land over which the Native Title has not been extinguished and not being the holder of a prospecting license in respect of such land who shall mine for gold thereon shall be liable to forfeit and pay for every such offence a penalty not less than five pounds and not more than fifty pounds. 5

Fines and Penalties.

Fines and penalties
how to be recovered.

112 All fines and penalties imposed under the authority of this Act or any regulations to be made in pursuance thereof may be sued for and recovered in a summary way before any Warden of the Court of the Gold Mining District within which the offence is committed or before any Justice of the Peace. 10

Delegation.

Governor may
delegate powers.

113 It shall be lawful for the Governor in Council under his hand and the Public Seal of the Colony from time to time to delegate to the Superintendent of any Province or to such other person as the Governor in Council may deem fit all or any of the powers vested in the Governor by this Act except the powers conferred by sections sixty-seven and sixty-eight and by subsection thirteen of section ninety-five thereof subject or not to any limitations or restrictions and in like manner to alter or revoke any such delegation. 15
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Repeal of Gold Fields Act.

This Act to repeal
Gold Fields Acts
except as to existing
rights &c.

114 Whenever this Act shall be brought into operation over any land already subject to "The Gold Fields Act 1866" "The Gold Fields Act Amendment Act 1868" and "The Gold Fields Act Amendment Act 1869" the said Acts shall be thereby repealed and thenceforth cease to have any force or effect in respect of such land except so far as relates to rights titles and interests created and subsisting by virtue of such Gold Fields Acts or any regulation made in pursuance thereof and all such rights titles and interests shall remain and subsist as though this Act had not been brought into operation and all questions arising in relation thereto shall be determined under the said Gold Fields Acts and not under this Act. 25
30

Exchange of Titles.

Titles under Gold
Fields Acts may be
exchanged for titles
under this Act.

115 Provided that in any district in which this Act is in operation it shall be lawful for the owner of any claim or license or any water race dam or reservoir or any machine business or residence site held occupied or enjoyed in such district under any Gold Fields Act or any regulation issued thereunder to surrender and yield up the same and in such case such owner shall be entitled to obtain a title to the land comprised in such claim or license or to such water race dam or reservoir or to such machine business or residence site under this Act which title shall have the same force and effect as though it had been originally granted under this Act. 35
40

SCHEDULES.

FIRST SCHEDULE.

FORM OF LICENSE TO WORK GOLD MINE.

Know all men that I [Name of Warden] Warden of the Court constituted for the [Name of District] Mining District do hereby grant unto [Name of grantee] his executors administrators and assigns [or name of Corporation their successors or assigns] sole and exclusive license and authority to enter upon and occupy the land described in the Schedule hereto and delineated on the plan plan [in the margin hereof or hereon indorsed] for the purpose of mining for gold and erecting machinery and constructing works connected therewith and doing all lawful acts incidental or conducive thereto: To hold the said land license and authority

Gold Mining Districts.

for the term of twenty-one years subject to the conditions and provisions of "The Gold Mining Districts Act 1871." Paying therefor yearly in advance the sum £ on the day of in every year.

In witness whereof I have hereunto subscribed my name and affixed the Seal of the Warden's Court of the Gold Mining District this day of 18 .

A.B. Warden.

Signed by the said [Warden's name] and the Seal of the Warden's Court affixed in the presence of C.D.

SCHEDULE.

Description of Land.

SECOND SCHEDULE.

FORM OF LICENSE FOR A WATER RACE DAM OR RESERVOIR.

Know all men that I [Name of Warden] Warden of the Court constituted for the [Name of District] Mining District do hereby grant unto [Name of grantee] his executors administrators and assigns [or name of Corporation their successors or assigns] sole and exclusive license and authority to enter upon and occupy the land described in the Schedule hereto for the purpose of constructing and using a water race [dam or reservoir] and the water in respect of which the same is constructed: To hold and use the said land license authority and water for the term of twenty-one years subject to the conditions and provisions of "The Gold Mining Districts Act 1871." Paying therefor yearly in advance the sum of five pounds on the day of in every year.

In witness whereof I have hereunto subscribed my name and affixed the Seal of the Warden's Court of the Gold Mining District this day of 18 .

A.B. Warden.

Signed by the said [Name of Warden] and the Seal of the Warden's Court affixed in the presence of C.D.

SCHEDULE.

Description of Land.

THIRD SCHEDULE.

FORM OF LICENSE FOR A BUSINESS OR RESIDENCE SITE.

Know all men that I [Name of Warden] Warden of the Court constituted for Gold Mining District do hereby grant unto [Name of grantee] his executors administrators and assigns [or name of Corporation their successors or assigns] sole and exclusive license and authority to enter upon and occupy for twenty-one years the piece of land described in the Schedule hereto for a machine [business or residence] site under and subject to the provisions of "The Gold Mining Districts Act 1871" Paying therefor yearly in advance the sum of [five pounds] [one pound].

Dated this day of 187 .

Witness C.D.

A.B. Warden.

SCHEDULE.

Description of Land above referred to.

FOURTH SCHEDULE.

SHORTLAND AND GRAHAMSTOWN.

THE TOWN of Shortland shall have such limits as shall be prescribed by the Governor in a Proclamation to be issued under "The Definition of Districts Act 1858."

The Town of Grahamstown shall have such limits as shall be prescribed by the Governor in a Proclamation to be issued under "The Definition of Districts Act 1858."

FIFTH SCHEDULE.

MINER'S RIGHT.

<i>Miner's Right.</i>	PROVINCE of
PROVINCE of	No.
No.	Gold Mining District.
Gold Mining District.	Date
Date	<i>Miner's Right.</i>
Name	Issued to under the provisions of
To be in force till 18 .	"The Gold Mining Districts Act, 1871." To be in force until the day of 18 .
	A.B. Warden.

SIXTH SCHEDULE.

BUSINESS LICENSE.

PROVINCE of No. £5 (£3 or £2 as the case may be). Gold Mining District. Date. Annual [half-yearly or quarterly as the case may be].	PROVINCE of No. £5 (£3 or £2 as the case may be). Date. <i>Business License.</i> Annual [half-yearly or quarterly as the case may be]. Issued to under the provisions of "The Gold Mining Districts Act 1871" to be in force till the day of 18 . The holder of this license is hereby authorized to carry on business in the [Name] Gold Mining District by vending or disposing of goods wares and merchandise whether by hawking or in any other manner. <div style="text-align: right;">A. B. Warden.</div>
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