

Hon. Mr. Cadman.

MINING ACT AMENDMENT.

ANALYSIS.

<p>Title.</p> <ol style="list-style-type: none"> <li>1. Short Title.</li> <li>2. Interpretation.</li> </ol> <p>PROSPECTING ON LAND AND RESUMPTION OF LAND FOR MINING PURPOSES.</p> <ol style="list-style-type: none"> <li>3. All lands open for prospecting, and all lands in mining districts liable to be resumed for mining purposes.</li> <li>4. Provisions to apply to such lands.</li> </ol> <p style="padding-left: 40px;">(1.) <i>Prospecting.</i></p> <ol style="list-style-type: none"> <li>5. Grant of prospecting licenses. Conditions to which license subject.</li> <li>6. Compensation to be paid to owner for surface damage.</li> <li>7. Warden or Magistrate to settle amount if disputed.</li> <li>8. Compensation to be paid before entering on land.</li> <li>9. Lands excepted from prospecting.</li> <li>10. Regulations as to prospecting-licenses.</li> <li>11. Repeal.</li> </ol> <p style="padding-left: 40px;">(2.) <i>Resumption for Mining purposes.</i></p> <ol style="list-style-type: none"> <li>12. Resumption as if taken for a public work.</li> <li>13. Application for resumption.</li> <li>14. Application to be referred to Warden or Magistrate.</li> <li>15. Warden or Magistrate to inquire and report. Costs.</li> <li>16. Deposit to be applied towards costs.</li> <li>17. How payable if deposit insufficient.</li> <li>18. Minister to determine whether land to be resumed.</li> <li>19. Limitation as to subsequent application if land not resumed.</li> <li>20. How compensation to be assessed.</li> <li>21. Compensation to be paid out of goldfields revenue.</li> <li>22. Payment when district embraces several local bodies.</li> <li>23. Arrears of fees, &amp;c., to be deducted from compensation.</li> </ol>	<ol style="list-style-type: none"> <li>24. Repeal.</li> <li>25. Repeal. Land resumed to be available after not less than twenty-eight days' notice in <i>Gazette</i>. Prior rights during that period. First Schedule.</li> <li>26. Regulations in respect thereof.</li> </ol> <p>SURRENDER OR DETERMINATION OF OUTSTANDING LEASES OR LICENSES GRANTED BY NATIVE OR OTHER OWNERS PRIOR TO ACQUISITION OF LAND BY THE CROWN.</p> <ol style="list-style-type: none"> <li>27. Provisions subject to which Governor may accept surrender of outstanding leases of Native or other lands.</li> <li>28. Provisions where such land resumed in whole or part.</li> <li>29. Extension of provisions to Tairua land.</li> </ol> <p style="text-align: center;">CERTIFICATES OF SERVICE.</p> <ol style="list-style-type: none"> <li>30. Service certificates to be of two grades.</li> <li>31. Grant of certificates to mine-managers acting before 18th August, 1886.</li> </ol> <p>WATER-RACES BELONGING TO LOCAL AUTHORITIES.</p> <ol style="list-style-type: none"> <li>32. Amendment of section 115 of principal Act.</li> <li>33. Section 118 of principal Act limited.</li> <li>34. Section 49 of principal Act extended.</li> </ol> <p style="text-align: center;">MISCELLANEOUS.</p> <ol style="list-style-type: none"> <li>35. Survey to be completed within three months. Repeal.</li> <li>36. Section 129 of principal Act amended.</li> <li>37. Section 149 of principal Act amended.</li> <li>38. Accumulation of dust to be prevented.</li> <li>39. Assistance towards constructing water-races in Otago District.</li> <li>40. Section 3 of Act of 1894 amended.</li> <li>41. Construction of section 16 of Act of 1895.</li> <li>42. Procedure as to certain lands in North Island alleged to be subject to outstanding interests.</li> <li>43. Provision for protection of mines at Thames from flooding.</li> <li>44. Validation.</li> <li>45. Acts repealed or amended. Schedules.</li> </ol>
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A BILL INTITULED

AN ACT to amend "The Mining Act, 1891."

Title.

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

1. The Short Title of this Act is "The Mining Act Amendment Act, 1896," and it shall form part of and be read with "The Mining Act, 1891" (hereinafter called "the principal Act").

## Interpretation.

2. (1.) The expression "mining purposes," as defined in section four of the principal Act, is hereby extended to include the use of any stream or water for any purpose connected with mining, and also of any land, whether as a site for any work connected with mining or for any other purpose connected with mining. 5

(2.) "Occupier" in this Act means the lessee, licensee, or other person in lawful occupation of land.

## PROSPECTING ON LAND AND RESUMPTION OF LAND FOR MINING PURPOSES.

All lands open for prospecting, and all lands in mining districts liable to be resumed for mining purposes.

3. Notwithstanding anything to the contrary contained in section two hundred and twelve of the principal Act, or subsection five of section three of "The Mining Act Amendment Act, 1892," or elsewhere in either of those Acts or in any other Act relating to mining, it is hereby declared that all lands whatsoever shall, without the consent of the owners or occupiers thereof, be open for prospecting for gold and silver, and also that all lands whatsoever that are within any mining district heretofore or hereafter constituted under the principal Act shall, without any such consent as aforesaid, be liable to be resumed for mining purposes, subject nevertheless to the provisions hereinafter contained: 10 15

Provided that nothing in this Act contained shall be construed to in any way affect the rights and privileges of the Crown in respect of any lands the mining rights in and over which have been or may hereafter be reserved or acquired by or ceded to the Crown. 20

Provisions to apply to such lands.

4. The provisions hereinafter contained as to prospecting and resumption respectively shall apply to all lands which are open to prospecting for gold or silver, or are liable to resumption for mining purposes, whether under the authority of this Act or of the principal Act or any amendment thereof: 25

Provided that those provisions shall not in any way affect the provisions of the principal Act relating to mining on Crown lands, or prospecting on Crown lands outside a mining district, or mining on Native lands in Native districts as defined by section twenty-five of that Act, except in so far as those lands are expressly mentioned. 30

(1.) *Prospecting.*

Grant of prospecting licenses.

5. (1.) With respect to such lands as are not within a mining district, the Minister, and, with respect to such of them as are within a mining district, the Warden, may grant prospecting licenses to applicants therefor. 35

(2.) Every such prospecting license shall authorise the person named therein to prospect for gold or silver in or upon the land 40

specified therein, subject to such terms and conditions and the payment of such fees as the Minister or the Warden granting the same thinks fit, and subject also to the conditions hereinafter contained.

Conditions to which license subject.

5 6. The holder of any such prospecting license shall pay to the owner and occupier of the land comprised therein full compensation (according to their respective interests) for surface damage that may be done to such land by such holder in prospecting for gold or silver pursuant to the license.

Compensation to be paid to owner for surface damage.

10 7. If the land is within a mining district, the Warden, and in all other cases any Stipendiary Magistrate exercising jurisdiction in the locality, shall, when necessary, assess from time to time the amount of such compensation in such manner as he deems just, and shall have jurisdiction to hear, determine, and enforce all claims in respect thereof.

Warden or Magistrate to settle amount if disputed.

15 8. No prospecting license shall be granted unless and until the applicant therefor either has actually paid the aforesaid compensation to the owner or occupier entitled thereto, or has entered into an agreement with such owner or occupier as to such compensation and the payment thereof.

Compensation to be paid before entering on land.

20 9. Nothing contained in this Act, or in any such prospecting license as aforesaid, shall authorise the holder of such license to enter upon—

Lands excepted from prospecting.

- 25 (1.) Any land actually used as a garden, orchard, vineyard, nursery, plantation, or ornamental pleasure-ground, or used or set apart as a cemetery; nor upon  
 (2.) Any land whilst actually under cereal or root crop; nor upon  
 (3.) Any land whereon is situate any spring, artificial reservoir, dam, or waterworks, or any building,—

30 unless in each case the written consent of the owner and occupier of such land is given.

10. The Governor may from time to time make regulations prescribing—

Regulations as to prospecting-licenses.

- 35 (1.) The form and mode of application for such prospecting-licenses as aforesaid, and the fees payable in respect thereof;  
 (2.) The form of such licenses, and the conditions subject to which they may be issued and held;  
 (3.) The mode in which, and the events on the happening of which such licenses may be forfeited;  
 40 (4.) All such other matters and things as he deems necessary in order to give full effect to the provisions of this Act relating to such licenses;  
 (5.) Penalties (not exceeding *five* pounds) for the breach of any such regulation.

45 11. The provisions of the *six last-preceding* sections of this Act relating to prospecting are in substitution of those contained in sections ninety-four, one hundred, and one hundred and one of the principal Act, all of which are hereby repealed.

Repeal.

(2.) *Resumption for Mining Purposes.*

50 12. (1.) The resumption of land for mining purposes shall be deemed to be the taking of land for a public work within the meaning

Resumption as if taken for a public work.

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of "The Public Works Act, 1894," and shall be effected subject to the provisions hereinafter contained.

(2.) Such resumption may be effected either as and when the Minister of his own motion thinks fit, or consequent on the hereinafter mentioned application for resumption.

Application for resumption.

13. Any person may make application in writing to the Minister for the resumption of any such lands as aforesaid for mining purposes, and shall forward with such application the sum of twenty-five pounds, to be dealt with as hereinafter provided.

Application to be referred to Warden or Magistrate.

14. The Minister shall refer such application to the Warden of the mining district, or if there is no such Warden, or if the land is not situate in a mining district, then to the Stipendiary Magistrate usually exercising jurisdiction in the locality, and shall inform the applicant thereof.

Warden or Magistrate to inquire and report. Costs.

15. (1.) The Warden or Magistrate shall inquire into the matter of such application, and report thereon to the Minister.

(2.) Such report shall state the reasonable costs (if any) properly incurred in connection with the inquiry (including any reasonable costs properly incurred by any owner or occupier), and also what proportion thereof (if any) the applicant ought to pay.

Deposit to be applied towards costs.

16. The aforesaid sum of twenty-five pounds shall be applied in paying such proportion of costs as aforesaid, and the balance (if any) of that sum shall be returned to the applicant.

How payable if deposit insufficient.

17. If the said sum of twenty-five pounds is not sufficient to pay such proportion as aforesaid, the deficiency, or, if the report states that no costs should be paid by the applicant, the total amount thereof, shall be paid, charged, and recouped in the same manner as the compensation payable in the event of the land being resumed, or if the land is not resumed, shall be paid out of moneys to be appropriated by Parliament.

Minister to determine whether land to be resumed.

18. Upon receipt of such report the Minister shall determine whether the land should or should not be resumed in whole or in part, and the land to be resumed shall be taken on behalf of Her Majesty in manner prescribed by "The Public Works Act, 1894": Provided that no land shall be resumed—

- (1.) Which is actually used as a garden, orchard, vineyard, nursery, plantation, or ornamental pleasure-ground; nor
- (2.) Which, being situate within any city, town, or borough, is of less area than a quarter of an acre; nor
- (3.) Which is the site of or situate within one hundred feet of the site of any house, factory, hospital, asylum, church, public building, cemetery, or waterworks; nor
- (4.) Which cannot lawfully be resumed without the consent of the owner and occupier,—

unless in each case the consent in writing of the owner and occupier of such land accompanies the application for resumption, or is subsequently given.

Limitation as to subsequent application if land not resumed.

19. If the Minister determines that the land should not be resumed, either in whole or in part, he shall inform the applicant thereof; and no further application for resumption of that land shall, unless by his special direction, be entertained for a period of twelve months thereafter.

20. All claims for compensation in respect of the land so resumed shall be assessed and settled in manner and to the extent provided by the principal Act. How compensation to be assessed.

21. The compensation payable in respect of the land so resumed shall be paid by the Colonial Treasurer out of moneys to be appropriated by Parliament for that purpose, and, together with the costs hereinbefore referred to, shall be charged upon and deducted from the goldfields revenue derived from the mining district wherein the land is situate, or subsequently becomes situate, or other revenue derived from such district in respect of mining, until out of such revenues all moneys paid in respect of such compensation and costs have been fully recouped to the Treasury. Compensation to be paid out of goldfields revenue.

Provided that in special cases, and on the recommendation of the Minister, one moiety only of the moneys paid in respect of such compensation and costs shall be so charged and deducted as aforesaid. Payment when district embraces several local bodies.

22. If such district embraces two or more local authorities entitled to the aforesaid revenues, then the aforesaid charge and deduction in respect of such compensation and costs shall be apportioned as the Minister thinks just.

23. In every case where any land is resumed for mining purposes before the same has been actually granted by the Crown in fee-simple, there shall be deducted from the compensation payable to any person in respect of such resumption the amount of all unpaid license-fees, rents, purchase-money, or other money payable by him in respect of such land, computed up to the date of such resumption. Arrears of fees, &c., to be deducted from compensation.

24. The provisions of the *twelve* last preceding sections of this Act, relating to resumption of land for mining purposes, are in substitution of those contained in sections two hundred and thirteen to two hundred and nineteen of the principal Act, and section ten of "The Mining Act Amendment Act, 1892," all of which are hereby repealed. Repeal.

25. Section ninety-six of the principal Act is hereby repealed, and in lieu thereof it is hereby enacted that in any of the following cases, that is to say,— Repeal.

- (1.) Where land is resumed for mining purposes ; or
- (2.) Where land the property of aboriginal natives is ceded to the Crown for mining purposes ; or
- (3.) Where gold or silver is discovered on Crown land not within a mining district, and in consequence of such discovery the land is brought within a mining district,—

the following provisions shall apply :—

- (a.) If the land is then within a mining district, it shall be available for mining purposes under the provisions of the principal Act on and after a day to be named by the Governor by notice published in the *Gazette*, being not sooner than twenty-eight days after the first publication of such notice in the *Gazette*, anything in the principal Act to the contrary notwithstanding. Land resumed, &c., to be available after not less than twenty-eight days' notice in Gazette.
- (b.) If the land is not then within a mining district, then the provisions of the *last-preceding* paragraph shall apply, subject to the modification that the therein-mentioned *Gazette* notice shall be published simultaneously with the Proclamation constituting the mining district.

Prior rights during that period.

First Schedule.

Regulations in respect thereof.

(c.) During the period between the first publication of the aforesaid *Gazette* notice and the day on which the land becomes available for mining purposes as aforesaid, claims as specified in the *First Schedule* hereto may be marked out and taken up on the land by the persons, in the order of priority, and subject to the provisions in that schedule set forth. 5

26. The Governor may from time to time make such regulations as he thinks fit in order to give full effect to the provisions of the *last-preceding* section hereof. 10

SURRENDER OR DETERMINATION OF OUTSTANDING LEASES OR LICENSES GRANTED BY NATIVE OR OTHER OWNERS PRIOR TO ACQUISITION OF LAND BY THE CROWN.

Provisions subject to which Governor may accept surrender of outstanding leases of Native or other lands.

27. In any case where land at any time acquired by the Crown from the Native or other owners thereof, is subject to any valid estate or interest lawfully created by such owners at any time prior to such alienation, the following provisions shall apply:— 15

- (1.) The Governor, on behalf of Her Majesty, may at any time, and upon such terms as to compensation as may be agreed on, accept the surrender of any such lease or license as to either the whole or any part of the land comprised therein, and, in the case of surrender as to part, may make such reduction as he deems equitable in the rent (if any) thereafter payable in respect of the residue. 20 25
- (2.) Such surrender may be made by memorandum under the hands of the Governor and the occupier.
- (3.) Such memorandum may be by indorsement on the lease or license, or by separate instrument, and, in the case of surrender as to part, shall set forth the part surrendered, and the terms and conditions upon which the surrender is made. 30
- (4.) For the purposes of registration, such memorandum shall, as the circumstances require, be deemed to be a deed within the meaning of "The Deeds Registration Act, 1868," or an instrument within the meaning of "The Land Transfer Act, 1885," and may be registered accordingly. 35
- (5.) If the surrender is as to part of the land, the lease or license shall thereafter be read and construed subject to the terms and conditions contained in the memorandum of surrender, and the District Land Registrar or Registrar of Deeds, as the case may be, shall make all such entries in his register as are necessary in order to record the same. 40
- (6.) If the land is within a mining district, then upon the completion of the surrender the Governor in Council shall, by a notice published in the *Gazette*, declare that the land therein described has been surrendered to Her Majesty, and will be available for mining purposes on and after a date to be named therein, being not sooner than twenty-eight days after the first publication of such 45 50

notice, and such land shall be available for mining purposes on and after that date (but not sooner) accordingly, under the provisions of the principal Act, anything in that Act to the contrary notwithstanding.

5 28. (1.) Any such lease or license may be determined for mining purposes as to either the whole or any part of the land comprised therein. Provisions where such land resumed in whole or part.

(2.) Such determination shall be deemed to be a resumption of the land for mining purposes, and all the provisions of this Act and  
10 the principal Act relating thereto shall *mutatis mutandis* apply accordingly.

(3.) In the event of the land comprised in any such lease or license being in whole or in part resumed for mining purposes, the following provisions shall apply :

15 (a.) The provisions of subsection *six* of the *last-preceding* section hereof shall, *mutatis mutandis*, apply upon the determination of the lease or license as to the land resumed ;

(b.) If only part is resumed, the occupier may surrender the  
20 lease or license as to the residue, under the provisions for surrender hereinbefore contained ; and also

(c.) With respect to such part as is resumed, and at the time of resumption is not within a mining district, the above-mentioned *Gazette* notice shall be published simultaneously with the Proclamation constituting the district.

25 29. The provisions of the *two last-preceding* sections hereof shall apply to any extension of lease or new lease granted under "The Tairua Land Act, 1893 : " Provided that nothing in this Act contained shall in any way affect the operation of subsections three and four of section three of that Act. Extension of provisions to Tairua land.

### 30 CERTIFICATES OF SERVICE.

30. The certificates of service referred to in section three hundred and seventeen of the principal Act shall be of two grades, to wit, first-class and second-class, and all such certificates heretofore granted shall be deemed to have been validly granted. Service certificates to be of two grades.

35 31. (1.) On application therefor in writing to the Board of Examiners at any time before the *first* day of July, one thousand eight hundred and ninety-seven, and on payment of a fee of one pound, a first-class certificate of service as mine-manager may be granted by the Board, without examination, to any person of good  
40 repute who for any continuous period of twelve months prior to the passing of "The Mining Act, 1886," acted satisfactorily as manager of a mine in the colony where not less than twelve men were continuously employed during such period. Grant of certificates to mine-managers acting before 18th August, 1886.

(2.) The applicant for a certificate under this section must  
45 satisfy the Board by documentary or other evidence that he possesses the qualification herein prescribed.

## WATER-RACES BELONGING TO LOCAL AUTHORITIES.

Amendment of section 115 of principal Act.

32. Section one hundred and fifteen of the principal Act (relating to water-races and water-rights acquired by the Council of any county or borough) is hereby amended as from the date of the commencement of that Act by substituting the word "or," in lieu of the word "and," next before the words "have by Order in Council been vested." 5

Section 118 of principal Act limited.

33. Section one hundred and eighteen of the principal Act (relating to assignments, alienations, and transfers of water-races belonging to the Corporation of any county or borough) shall not apply, nor be deemed to have at any time applied, to assignments or transfers by way of mortgage for the purpose of securing the repayment of loans granted under "The Government Loans to Local Bodies Act, 1886." 10

Section 49 of principal Act extended.

34. The provisions of section forty-nine of the principal Act are hereby extended to apply to drainage areas, special sites, and all other areas which require to be defined by posts or other marks. 15

## MISCELLANEOUS.

Survey to be completed within three months.

35. (1.) With respect to every claim, licensed holding, or special claim, the following provisions shall apply:— 20

(a.) The survey thereof shall be completed, and the plans relating to such survey lodged in the Warden's office, within the period of *three* months after the date of the application therefor, or within such extended period (not exceeding *three* months) as the Warden in his discretion thinks fit to grant on application made in that behalf before the expiration of the first-mentioned period. 25

(b.) If such survey and plans are not duly completed and lodged as aforesaid within such period or extended period as aforesaid such application shall be deemed to be intentionally abandoned, and the ground to which such application relates may be marked out and taken possession of as abandoned ground. 30

Repeal.

(2.) Section one hundred and twenty-five of the principal Act is hereby repealed. 35

Section 129 of principal Act amended.

36. Section one hundred and twenty-nine of the principal Act is hereby amended by repealing the words "in the case of a water-race," and by inserting next after the word "licenses" the words "as the case may be."

Section 149 of principal Act amended.

37. Section one hundred and forty-nine of the principal Act is hereby amended by repealing the words "business license" wherever they occur in that section, and substituting in lieu thereof where they first occur, the words "any form of license or certificate," and, where they secondly occur, the words "license or certificate." 40

Accumulation of dust to be prevented.

38. Subsection one of section three hundred and twenty-three of the principal Act is hereby amended by the addition of the following words: "And in particular, in every case where quartz is crushed in a dry state, there shall at all times be employed in and about the battery where such crushing takes place such appliances as, in the opinion of the Inspector of Mines, will effectually prevent the accumulation of dust and keep the air pure." 50



39. In lieu of assisting the prospecting of deep levels in any mining district in Otago, as provided by section two of "The Mining Act 1891 Amendment Act, 1894," the Minister may apportion and apply so much of the sums in that section referred to as he deems equitable in giving special assistance towards the construction of water-races and water storage reservoirs in any of the mining districts of Otago.

Assistance towards constructing water-races in Otago District.

40. Section three of "The Mining Act 1891 Amendment Act, 1894," (relating to licensees of water-races) is hereby amended by inserting in the first subsection thereof the words "or any Act by that Act repealed" next before the words "may surrender the same."

Section 3 of Act of 1894 amended.

41. Section sixteen of "The Mining Act Amendment Act, 1895," shall not be deemed to have repealed section sixty of the principal Act.

Construction of section 16 of Act of 1895.

42. (1.) Whereas in certain parts of the North Island mining rights in and over land have been ceded to or acquired by Her Majesty, but question has been raised whether such cesser or acquisition was subject to outstanding interests in the land, and, pending the settlement of such question, mining operations under the principal Act have not been authorised thereon: Be it therefore enacted that in every such case such land shall not be available for mining purposes until a date to be named by the Governor by notice in the *Gazette*, such date being not sooner than twenty-eight days after the first publication of such notice.

Procedure as to certain lands in North Island alleged to be subject to outstanding interests.

(2.) The Minister may, as occasion arises, notify in the *Gazette* what land is subject to the provisions of this section, and such notification shall be sufficient evidence of the fact.

43. Whereas there is danger of serious damage being done to the mining industry on the Thames Goldfield by the flooding of claims with water consequent on the reckless prosecution of mining operations seawards: Be it therefore enacted as follows:—

Provision for protection of mines at Thames from flooding.

(1.) It shall not be lawful for any person to in any way carry on mining operations under the sea on the Thames Goldfield, or, in carrying on mining operations, to in any way cut into what is known as "the seaward slide," between Shellback Creek and the Kauaeranga River, on the Thames Goldfield, unless in each instance, before beginning such operations he submits to the Inspector of Mines a plan thereof, and obtains his consent thereto in writing.

(2.) Such consent may be given on such terms and conditions as the Inspector of Mines thinks fit to impose, and shall be deemed to be subject to the special condition that he may withdraw such consent at any stage of such operations.

(3.) It shall be the duty of the Inspector of Mines to withdraw such consent whenever, in his opinion, the further prosecution of any such operations may lead to an influx of water, whether from the sea or otherwise.

(4.) If the Inspector of Mines is at any time of opinion that any person's mining operations are being prosecuted so near to the said slide as to be likely to lead to an influx of water, whether from the sea or otherwise, he may, by notice in writing, require such

person to stop such operations, and it shall be the duty of such person to forthwith stop the same accordingly.

(5.) If any person

Carries on any such operations without such consent, or in breach of any of the terms or conditions subject to which such consent was given, or continues to prosecute any such operations after the withdrawal of such consent, or after receiving notice from the Inspector to stop the same, he commits an offence, and is liable to a penalty not exceeding *five hundred* pounds, and is also civilly liable for all damage done to any person's claim by the influx of water consequent on the committal of such offence.

Validation.

44. All licensed holdings and special claims in the block known as Pakirarahi No. 2 which have been granted by the Warden or approved or signed by the Minister on or before the thirtieth day of June, one thousand eight hundred and ninety-six, are hereby declared to have been validly granted, approved, or signed as aforesaid.

Acts repealed or amended.

45. For convenience of reference the chief enactments repealed or amended by this Act are collected in the Second Schedule hereto.

Schedules.

## SCHEDULES.

### FIRST SCHEDULE.

#### CLAIMS THAT MAY BE MARKED OUT AND TAKEN UP.

If the area of the land resumed, ceded, or brought within a mining district does not exceed 5 acres	} An ordinary claim or a double claim.
If such area exceeds 5 acres but does not exceed 20 acres	
If such area exceeds 20 acres, but does not exceed 50 acres	} An extended claim.
If such area exceeds 50 acres ... ..	
	} A licensed holding.
	} A special claim.

PERSONS UPON WHOM THE RIGHT TO MARK-OUT AND TAKE UP CLAIMS IS CONFERRED; THEIR ORDER OF PRIORITY; AND THE PROVISIONS SUBJECT TO WHICH SUCH RIGHT MAY BE EXERCISED.

1. The persons, or groups of persons, upon whom the right to mark-out and up claims is conferred are,—

- (1.) The person (hereinafter, with all persons in the same group, called "the discoverer") who, being the holder of a prospecting license in respect of the land, *bonâ fide* discovers gold or silver thereon, and in the prescribed manner notifies the Minister of the fact, date, and locality of the discovery, if the land is resumed, ceded, or brought within a mining district in consequence of such discovery and notification.
- (2.) The person who is the owner or occupier (hereinafter, with all persons in the same group, called "the proprietor") of the land.
- (3.) The person (hereinafter, with all persons in the same group, called "the applicant") pursuant to whose application and deposit, whether made before or after the passing of this Act, the land is resumed.

Provided that no such person or group of persons shall be entitled to mark out and take up more than one claim.

2. The rights of the discoverer, the proprietor, and the applicant to mark-out and take up claims shall, as against all other persons, have priority during the whole of the period referred to in subsection (c) of section 25 of this Act, but shall, as between themselves, be regulated as follows :—

- (1.) During the first half of the said period the proprietor shall (subject to the proviso hereinafter contained) have the exclusive right to mark out and take up a claim as aforesaid on such portion (if any) of his land as comprises the site of mining operations which he was *bonâ fide* carrying on at the time when, as the case may be, the discoverer notified the Minister, or the applicant made his application and deposit, or (in the absence of such notification or application) the land was ceded or was brought within a mining district;
- (2.) Subject to the aforesaid exclusive right of the proprietor, the discoverer shall during the first half of the said period have the exclusive right to mark out and take up a claim as aforesaid on any portion of the land to which his discovery and notification relate;
- (3.) Subject to the aforesaid exclusive rights of the proprietor and the discoverer, the applicant shall, during the first half of the said period, have the exclusive right to mark out and take up a claim as aforesaid on any portion of the land to which his application for resumption relates;
- (4.) During the second half of the said period the rights of the discoverer, the proprietor, and the applicant (if or in so far as such rights have not already been exercised) shall be regulated by the date on which the claims are marked out and taken up:

Provided that the aforesaid exclusive right of the discoverer, or the applicant, shall have priority over that of the proprietor in any case where the discovery or the application was made before the passing of this Act; and also that in such case it shall not be necessary for the discoverer to have notified the Minister as aforesaid.

3. The claims shall be marked out and taken up under the provisions of the principal Act in like manner as if the land were available for mining purposes.

4. The Warden shall have jurisdiction to determine all questions and disputes that arise in relation to the exercise of the aforesaid rights.

SECOND SCHEDULE.

ENACTMENTS REPEALED OR AMENDED.

- 1891, No. 33.—The Mining Act, 1891. In part, namely—  
Sections 4 and 49, extended.  
Sections 94, 96, 100, 101, 125, 213 to 219, repealed.  
Sections 115, 118, 129, 149, and subsection (1) of section 323 amended.  
Section 212, modified.
- 1892, No. 47.—The Mining Act Amendment Act, 1892. In part, namely—  
Subsection (5) of section 3, modified.  
Section 10, repealed.
- 1894, No. 52.—The Mining Act 1891 Amendment Act, 1894. In part, namely—  
Section 2, modified.  
Section 3 amended.
- 1895, No. 60.—The Mining Act Amendment Act, 1895. In part, namely—  
Section 16, explained.