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(Hon. Mr. Stafford.)

# Wardens' Courts Proceedings Validation.

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## A BILL INTITULED

AN ACT to validate the Proceedings of Wardens' Courts held under the Gold Fields Acts in certain cases, and to indemnify the Wardens and Officers of such Courts from Proceedings in respect of any Illegality in the holding of such Courts.

Title.

WHEREAS by "The Gold Fields Act, 1866," it is provided that it shall be lawful for the Governor from time to time by Proclamation to constitute and appoint any portion of the Colony to be a Gold Field under the provisions of the said Act, and the limits of such Gold Field from time to time to alter as occasion may require; and also, if he shall see fit, to revoke the Proclamation by which any such Gold Field shall have been constituted: And whereas by the forty-eighth section of the said Act it is also provided that it shall be lawful for the Governor, at any time subsequent to the proclamation of a Gold Field, to withdraw therefrom any Crown lands which he may deem it necessary to withdraw, and such lands shall thenceforth be sold occupied and disposed of as in the said Act mentioned: And whereas by the said Act it is also provided that it shall be lawful for the Governor as therein mentioned from time to time to delegate to the Superintendent of any Province, or to such other person as the Governor may deem fit, all or any of the powers vested in the Governor or the Governor in Council by the said Act, except the powers conferred by sections twenty-two, forty, forty-eight, sixty, ninety-six, and one hundred and seven: And whereas the Governor hath from time to time exercised the powers conferred by the lastly hereinbefore recited provision, and hath delegated to Superintendents of Provinces and to other persons all, or as the case may have been, some of the powers vested in him by the said Act, except the powers contained in the said several sections hereinbefore mentioned, and such delegations, or some of them, are now in full force and operation throughout the Colony or in divers parts thereof: And

Preamble.

whereas by the sixtieth section of the said Act it is enacted that it shall be lawful for the Governor by Order in Council from time to time to constitute for any Gold Field or for any part thereof Wardens' Courts for the administration of justice therein, and to appoint Wardens of such Courts with power to act alone or with Assessors, and in such manner and to exercise all or any of the powers in the said Act mentioned as the Governor should think fit to direct: And whereas the Governor by Order in Council hath at divers times constituted Wardens' Courts for Gold Fields under the lastly hereinbefore recited Act, and hath also appointed Wardens of such Courts as and in manner therein provided: And whereas it appears that the Superintendents of Provinces, and others to whom the Governor hath delegated certain powers under the authority of the said Act, have at different times constituted and appointed certain parts of the Colony over which their powers extended to be Gold Fields under the said Act, or have altered the limits of existing Gold Fields by reducing or extending the same or in some other way: And whereas it hath happened in some cases that such constitution of a Gold Field, or such alteration thereof as aforesaid hath been made without taking measures to provide for the constitution of Wardens' Courts, and the appointments of Wardens for such Courts within such Gold Field so constituted or altered as aforesaid: And whereas it also appears that in some instances where, under the hereinbefore recited powers, Crown lands have been withdrawn from a Gold Field under the powers mentioned in the said Act, that Wardens' Courts within such Gold Field have continued to hold sittings in such part so withdrawn and to exercise jurisdiction therein: And whereas, in consequence of the doubts existing as to the exercise of jurisdiction by such Wardens' Courts in the respective cases hereinbefore mentioned, and by reason of the many interests involved in the uncertainty as to the legal constitution of such Courts, and in order to protect Wardens and others who may have acted in or be affected by the proceedings of any such Courts, it is expedient that an Act should be passed for the purposes hereinafter set forth:

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 Wardens' Courts Proceedings Validation Act, 1872."

**Interpretation.**

2. In the interpretation of this Act the following words and expressions shall be construed to have the meanings hereby respectively assigned to them, unless it shall appear from the context that some other meaning should be assigned thereto (that is to say),—

The word "Province" shall mean and include the County of Westland.

The word "Superintendent" shall mean and include the Chairman of the County Council of the County of Westland, and any other person to whom the Governor may have delegated any of his powers under the hereinbefore in part recited Act, or any other Act heretofore in force relating to the management of Gold Fields.

The term "Officer of the Court" shall mean and include the Clerk of any Warden's Court constituted under the said Act, and the Bailiff of any such Court, and any Constable or other person or persons whomsoever who may be or have been employed or engaged in the conduct of any proceedings in any Warden's Court, or in enforcing the order decree or judgment of any such Court by distress or sale or by warrant or in any other manner howsoever.

The term "Gold Field" shall mean any Gold Field proclaimed to be a Gold Field under the provisions of "The Gold

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Fields Act, 1866," or by any law or statute in force prior to the passing of that Act, and which may have been constituted under the said Act, or proclaimed anew either by the Governor or by any person acting under any delegated power under the said Act, and whether the limits thereof may or may not have been altered in any manner at the time of any such constitution or proclamation anew as aforesaid.

The term "Warden" shall mean every Warden of a Gold Field as herein defined, and who may have acted in any such Gold Field, or in any town or place therein, in manner hereinafter mentioned, and whether the same shall or shall not actually have been within the limits of such Gold Field, and shall also include any Assessors who may have tried or heard or assisted in the trial or hearing of any case in any Warden's Court.

The expression "the said Act" shall mean "The Gold Fields Act, 1866," and any Act or Acts amending the same and now in force.

3. Whenever it shall have happened at any time heretofore that any Gold Field in the Colony shall have been constituted and appointed anew under the provisions of the said Act, whether such constitution and appointment shall have been made by the Governor under the said Act, or by the Superintendent of any Province, or any other person, under all or any powers which may have been lawfully delegated to him under the said Act, all Wardens' Courts then or thereafter in existence within any such Gold Field shall, for the purposes of giving thereto all the jurisdiction and powers conferred thereon by the said Act, be deemed to have been duly and validly constituted by the Governor in Council under the sixtieth section thereof, after the date of any such constitution and appointment of such Gold Field as aforesaid.

Wardens' Courts deemed to be validly constituted although Gold Field reconstituted.

4. Whenever at any time heretofore any Crown lands may have been withdrawn from any Gold Field proclaimed to be a Gold Field under the said Act by the Governor under the powers vested in him for that purpose, and where any Warden's Court shall, at the time of such withdrawal, have had its usual place of sitting within the boundaries of the land so withdrawn from such Gold Field either wholly or in part, and where such Warden's Court shall have continued to hold its sittings within such boundaries, then and in every such case every such Warden's Court shall, for the purposes of such sitting, and of any order decree judgment or process made by such Court, or enforced or prosecuted within such boundaries, of all proceedings in relation thereto had or held therein, be deemed to have been held within a place wholly situate within a Gold Field lawfully proclaimed to be a Gold Field under the said Act.

Wardens' Courts deemed to be legally constituted although place of sitting withdrawn from Gold Fields.

5. Every Warden who shall have exercised his jurisdiction as such Warden in either of the cases hereinbefore mentioned, and all officers of any Warden's Court who shall have been employed or concerned in the conduct of proceedings therein, or in enforcing the order decree judgment or process of any such Court in either of the cases hereinbefore mentioned, or in enforcing any other proceeding in such Court in relation to any such order decree judgment or process, shall respectively, while so sitting or acting as the case may be, be deemed to have had full power and authority to exercise all such jurisdiction power or authority as such Warden, or as the officer of such Warden's Court as aforesaid, would but for such defect in the jurisdiction of the Court have legally been entitled to have and exercise.

Wardens and officers of Courts deemed to have had jurisdiction.

6. All Gold Fields now proclaimed and constituted within the

Gold Fields now

proclaimed deemed to be legally proclaimed.

Colony, and whether proclaimed and constituted by the Governor under the said Act, or by any Superintendent or other person lawfully acting under the powers delegated to him under the said Act, shall, in so far as respects the observance of any formality in the proclamation or constitution thereof, be deemed to be and to have been at all times 5 duly proclaimed and constituted as such Gold Fields as aforesaid, subject however to the terms of the Proclamation constituting and appointing the same.

Wardens' Courts on such Gold Fields deemed to have been legally constituted.

7. Every Warden's Court now in existence within the Colony shall be deemed to have been duly constituted by the Governor in 10 Council under the powers in the said Act contained, and that notwithstanding the Gold Field within or for which the same may be, shall have been constituted anew, or that the limits of any such Gold Field may have been altered or extended or reduced by any lawful authority, or by any person affecting to exercise lawful authority at a period 15 subsequent to the constitution of such Warden's Court.

And every Warden and all officers of such Court shall be deemed to have been duly and legally appointed under the said Act as the Warden and officers of such Courts respectively, notwithstanding any such constitution anew, or any such alteration as last aforesaid. 20

Indemnity to Wardens and officers of Courts.

8. Every Warden and the officers of every Warden's Court, and all persons interested in or concerned in any order decree judgment or process of any such Court, or who may have acted or been concerned in any proceedings therein in either of the cases mentioned in the 25 and sections of this Act, or who in any way may have enforced or been concerned in the enforcement of any such order decree or judgment as aforesaid, by any process or proceeding whatsoever, is and are hereby respectively indemnified of and from all actions suits proceedings and prosecutions whatsoever for or in respect thereof, or for or in respect of any trespass or alleged trespass in the making of any 30 such order or decree, or in the giving of such judgment, or in the issue of such process, or the enforcement thereof in anywise howsoever, or touching or concerning any process or proceeding whatsoever in or issuing out of any such Warden's Court as aforesaid for or in respect of any such order decree judgment or proceeding: Provided however 35 that this indemnity shall not have any further operation than to make valid the holding of such Court, and all proceedings therein arising from the holding thereof or in relation thereto.

Protection to Wardens and officers of Courts.

9. If any action suit proceeding or prosecution has been, or shall hereafter be, commenced against any Warden, or the officer of a 40 Warden's Court, or any other person or persons whomsoever who may have acted or been concerned in any such proceedings as in the last preceding section mentioned for or in respect of any trespass by reason thereof, he or they may plead the general issue, and give this Act and the special matter in evidence, or may apply to a Judge of the Supreme 45 Court in a summary way, or to the Court in which proceedings are pending to stay such action suit prosecution or proceeding as aforesaid, and the same shall be stayed by the said Court accordingly.

Protection to purchasers and others.

10. All property goods chattels or effects whatsoever, and all interest therein which may have been sold under or by virtue of any 50 order decree or judgment of a Warden's Court before the passing of this Act, shall, in so far as the title thereto or the right to the possession thereof or the property therein, may depend on the extent and validity of the jurisdiction affected to be exercised by the Warden's Court or the Warden thereof, be deemed to vest in the respective 55 purchasers thereof, or the persons by law entitled to hold or retain the same, as fully and effectually as if such Court had had full jurisdiction and power to act therein.

And all orders decrees and judgments made or pronounced by any such Court, or the Warden thereof, at any time before the passing of 60

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5 this Act, in any matter or thing within the jurisdiction of such Court, in so far as the validity thereof depends, or might depend on the extent and validity of the jurisdiction affected to be exercised by such Warden's Court or the Warden thereof, shall be and be deemed to have been valid and effectual as if no such defect in the jurisdiction of such Court or the Warden thereof had existed or been supposed to exist.

10 **11.** In any case where Crown lands shall have been, or shall hereafter be, withdrawn from a Gold Field proclaimed under the said Act, or any Act for the time being relating to Gold Fields within the boundaries of which land so withdrawn a Warden's Court shall be usually held, it shall be lawful for such Court to continue to hold its sittings at the place where they have previously been held, and for the purposes of holding such Court the land so withdrawn shall be deemed and held still to be a part of the Gold Field from which the same has been in fact withdrawn; and all proceedings and process of such Court shall and may lawfully be had conducted and enforced therein as though the same were held within a Gold Field legally proclaimed and constituted.

Wardens may hold Courts in places withdrawn from the Gold Fields.

20 **12.** Every Warden who now is or hereafter may be duly appointed to be a Warden of a Warden's Court constituted under the said Act may hold his Court at any place within the Province where such Gold Field may be situated, and it shall not be necessary for the validity of any proceedings in such Court that the same shall be constituted by the Governor in Council under the powers in the said Act contained.

25 Nor shall the holding of any such Court be affected by the alteration of the boundaries of such Gold Field, or by the withdrawal of any waste or other lands from such Gold Field by or under any power or authority for that purpose; but every such Court shall and may be holden in the manner hereinbefore provided as if such Court had been legally constituted, or as if the alteration in the limits of the Gold Field had not been made, or as if any waste or other lands had not been withdrawn as hereinbefore mentioned.

30 **13.** Every Warden heretofore or hereafter appointed to be a Warden of all or any Wardens' Courts constituted under the said Act shall, until his death resignation or express removal from office, be deemed to be and to have been a Warden of all such Wardens' Courts as lastly hereinbefore mentioned.

40 And all proceedings of such Wardens' Courts, and all process issuing thereout, shall and may respectively be held conducted and enforced therein as though such Courts had been duly constituted by the Governor in Council under the powers in the said Act contained.