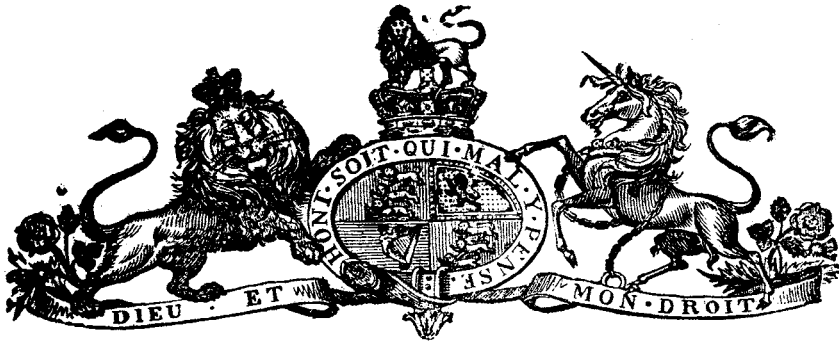


T A S M A N I A.



1882.

ANNO QUADRAGESIMO-SEXTO

VICTORIÆ REGINÆ.

No. 36.



AN ACT to further amend "The Mineral Lands Act, 1877." [6 November, 1882.] A.D. 1882.

WHEREAS doubts have arisen as to the effect of Water-rights granted by the Minister under "The Mineral Lands Act, 1877," and it is expedient to remove such doubts, and to amend the Law with respect to the taking and using of Water for Mining purposes :

PREAMBLE.
41 Vict. No. 7.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 In this Act, unless the context otherwise determines—

Interpretation.

"The said Act" means and includes "The Mineral Lands Act, 1877," and every Act amending the same :

"Crown Lands" includes Waste Lands as defined in the said Act, and also all lands which have been or which may be leased for mining purposes.

2 It shall be lawful for the Minister, with the consent of the Governor in Council, to grant to any person for any term not exceeding Twenty-one years, subject to the provisions of the said Act, and to the Regulations made and to be made thereunder, a licence (hereinafter called a Water-right), which shall authorise such person, his executors, administrators, and assigns (except as against Her Majesty), to cut, construct, and use races, drains, dams, and reservoirs through and upon any Crown lands, whether the same shall or shall not have been demised

Grant of Water-rights.

Mineral Lands.

A.D. 1882.

under the provisions of the said Act or any other Act heretofore or hereafter to be in force relating to leases for mining purposes, and to deepen, widen, cleanse, repair, or otherwise improve any race, drain, dam, or reservoir cut or constructed through or upon any Crown lands, and to take or divert water from any spring, lake, pool, or stream situate or flowing upon or through or bounded by any such Crown lands, in such manner as shall be prescribed by such Water-right and Regulations, in order to supply water for mining purposes to such person or any other person who may be engaged in mining or for the domestic purposes of such person; and it shall be lawful for the person to whom any such Water-right shall be granted to take or divert such water; and such Water-right, and the property and interest in any race, dam, or reservoir cut or constructed by virtue thereof, shall be deemed to be a chattel interest. Provided that nothing herein contained shall be construed to affect or prejudice the existing rights of any person to the reasonable use of the water passing through his land.

Holder of Water-right to make compensation.

3 Any person to whom any such Water-right shall be granted who shall by virtue thereof enter upon any land demised for mining purposes shall make compensation for any injury or damage occasioned by such entry and by the cutting and constructing of any races, dams, or reservoirs on any such land; and such compensation shall be ascertained and settled by arbitration as may be prescribed.

Regulations as to taking and using water.

4 The power conferred by the Thirty-sixth Section of the said Act shall be deemed to have extended to making, altering, and rescinding Regulations—

For the taking, diverting, using, and returning water for mining purposes, and for regulating the payment to be made therefor.

Past grants of Water-rights confirmed.

5 All Water-rights and all Rights to construct races heretofore granted under the said Act or any Act amending the same shall be deemed to have been validly granted, and shall be deemed to confer and shall confer upon the persons to whom the same have been granted the rights therein expressed to have been conferred, including the right to take and use water for mining and domestic purposes to the extent named therein; but such persons shall be liable to make compensation for any injury or damage occasioned in the exercise of such right in the same manner and to the same extent as is provided with regard to Water-rights to be hereafter granted; but no such Right shall be deemed to have authorised or to authorise the demise of any land already under lease, or the deprivation of any person holding a lease for mining purposes having priority to such Right, of such supply of water flowing in a natural bed or channel through or along the margin of the land leased by him as such leaseholder may from time to time require for the purpose of effectively working the land demised to him; and the onus of proving that such water is required for such working shall lie upon the lessee.

Nothing herein contained shall render valid any Right which has been granted or procured by means of fraud or misrepresentation, but the same may be dealt with in the same manner as if this Act had not been passed.

Commissioner to settle disputes as to Water.

6 The power conferred by the said Act upon a Commissioner to hear and determine disputes, and the right of appeal thereby given from the

Mineral Lands.

determination of a Commissioner on any such dispute, shall extend to all disputes which may have arisen or which may hereafter arise, as to the right to take and use water under the said Act or this Act, or any Regulations made thereunder, and as to the quantity of water to be taken by any person, and the mode and times of taking, storing, collecting, or diverting such water, or of returning the same when used to its natural channel. All the provisions of "The Mining Appeals Regulation Act, 1882," shall apply to such appeals.

A.D. 1882.

Right of appeal.

46 Vict. No. 20.

7 It shall be lawful for a Commissioner, upon the application of any person interested, from time to time to order and determine the mode in which any race or drain shall be carried or constructed, or in which water shall be conveyed, through, over, or across any land, so as to cause as little interference as the Commissioner may deem practicable with the profitable working of such land ; and every such order may be rescinded or varied upon the application of either party as the Commissioner thinks fit ; and any order made by a Commissioner may be enforced in the same manner as any other order made by a Commissioner may now be enforced.

Commissioner to determine mode in which race to be carried through land of another person.

8 This Act and the said Act, and all Acts amending the same, shall be read and construed together as one Act.

Acts to be read together.

9 This Act may be cited as "The Mineral Lands Amendment Act, 1882."

Short title.

