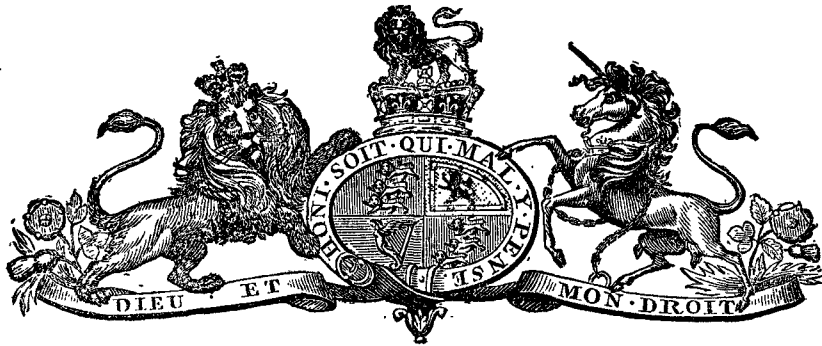


NEW ZEALAND.



ANNO TRICESIMO SECUNDO

VICTORIÆ REGINÆ.

No. LIII.

ANALYSIS.

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| <p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Governor empowered to proclaim Gold Field over Native lands after power to authorize mining has been obtained from owner. 4. Rent and other moneys payable under such agreements may be deducted from Gold Fields Revenue. 5. Penalty for mining on Native lands not included within Gold Field except under prospecting license. 6. Prospecting license to search for gold on Native lands. 7. Mining on Native Lands within Gold Field except by owner of miner's right prohibited.</p> | <p>8. Governor empowered to make regulations for mining on Native lands. 9. Land below high-water mark may be included in Gold Field. 10. Mining on private land without consent not authorized. 11. Governor may delegate powers. 12. Appeals on matters of fact under section 81 or 82 of "The Gold Fields Act 1866" how to be heard. 13. Clerk of District Court to summon assessors on appeals when required. 14. Interpretation of the term "District Court" in matters of appeal from Wardens' Courts. Exercise of original jurisdiction of District Courts.</p> |
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AN ACT to regulate Mining for Gold on Native Land and for that purpose to extend and apply certain provisions of the Gold Fields Acts to Mining on such Lands and for other purposes.

Title.

[20th October 1868.]

WHEREAS in the Act of the General Assembly called "The Gold Fields Act 1866" it is enacted that the expression "Gold Mine" and "Gold Field" where used in the said Act shall respectively mean that part of the Waste Lands of the Crown in the Colony on which any persons are or may be actually engaged in mining for gold and which shall be proclaimed to be Gold Fields as hereinafter provided And whereas by the said Act it is also enacted that the words "Crown Lands" where used in the said Act shall be construed to mean and include not only the Demesne Lands of the Crown in New Zealand but also any other land whatever over which the Governor shall by lease agreement or otherwise have obtained power to authorize gold mining thereon And whereas by the third section of the said Act it is provided that whenever any district shall have been proclaimed a Gold Field the same shall be subject to the provisions of the said Act but that private lands shall be

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exempt from the operation of the said Act except where especial provision to the contrary is made therein And whereas it is expedient that mining for gold on lands over which the Native title has not been extinguished should be authorized and regulated and the provisions of the said Act should so far as the same are applicable be extended and applied to mining for gold on such lands as last aforesaid

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 Fields Act Amendment Act 1868.”

Interpretation.

2. The expression “the said Act” when used herein shall mean “The Gold Fields Act 1866” and this Act shall be read and construed with and as part of the said Act and it shall come into operation on the first day of December one thousand eight hundred and sixty-eight.

Governor empowered to proclaim Gold Field over Native lands after power to authorize mining has been obtained from owner.

3. It shall be lawful for the Governor if and whenever he shall have by lease agreement or otherwise by consent of the Native owners of any land over which the Native title has been extinguished or the Native owners of any land over which the Native title has not been extinguished obtained power from such Native or other owners to authorize entry on such lands for mining for gold by Proclamation issued under the third section of the said Act to include such land within any Gold Field or to proclaim such land a Gold Field and whenever any land over which the Native title has or has not been extinguished shall have been so proclaimed by the Governor within a Gold Field or to be a Gold Field the same shall be subject to the provisions of the said Act and the said Amendment Act except where otherwise specially provided herein and shall be deemed to be Crown lands within the meaning and for the purposes of the said Act and the term “Gold Mine” and “Gold Field” shall for the purposes of the said Act respectively mean that part of any such lands on which any persons may be engaged in mining for gold and proclaimed to be within a Gold Field as aforesaid and the publication of any such Proclamation in the *New Zealand Gazette* shall be conclusive proof that the consent of the owners of the land to which such Proclamation shall apply has been obtained.

Rent and other moneys payable under such agreements may be deducted from Gold Fields Revenue.

4. It shall be lawful for the Governor from time to time to order that payment of the rents or other moneys payable under any such lease or agreement or for or in consideration of such consent as in the last section referred to shall be made out of the Gold Revenue of the Gold Field proclaimed over land the subject of such lease agreement or consent or out of the revenue arising from Gold Duty collected in the Province within which such Gold Field is situated notwithstanding that the powers of the Governor under the said Act or some of them may have been delegated to the Superintendent or Provincial Executive of such Province and on any such order being made such moneys aforesaid shall become a charge on such revenues as aforesaid and shall be deducted from and payable thereout in such manner and at such times as the Governor shall order.

Penalty for mining on Native lands not included within Gold Field except under prospecting license.

5. It shall not be lawful for any person except he be the owner or one of the owners or unless he be the holder of a prospecting license issued under this Act to mine for gold in under or upon any lands in New Zealand over which the Native title has not been extinguished unless the same are for the time being included within a Gold Field proclaimed by the Governor and any person who shall mine for gold on any such land not being the holder of such prospecting license and any person except such owner as aforesaid who

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shall employ any other person not being the holder of such prospecting license to mine for gold in under or upon any such land as in this section aforesaid shall be liable to forfeit and pay a penalty for every such offence of not less than five and not exceeding fifty pounds.

6. It shall be lawful for the Governor to cause to be issued to any person in such form and on such terms and conditions as the Governor shall think fit a license to be called a "prospecting license" which shall authorize the person to whom the same is issued to prospect and search for gold on any land within the district specified in such license provided such person shall have obtained the consent of the owner of such land but no such license shall be issued for prospecting for gold on any Gold Field or if issued shall have any force or effect therein.

Prospecting license to search for gold on Native lands.

7. Notwithstanding anything to the contrary contained in the said Act it shall not be lawful for any person whatever not being the owner of a miner's right issued under the said Act to mine for gold in under or upon any land included within any proclaimed Gold Field although such land may not be waste lands or Crown lands as defined by the said Act but lands over which the Native title has been extinguished and of which no grant from the Crown has been issued or lands over which the Native title has not been extinguished but over which the Governor has obtained power to authorize mining and any person not being the owner of a miner's right who shall mine for gold upon any such land and any person who shall employ any such unauthorized person so to mine on any such land shall be liable to forfeit and pay a penalty of not less than five and not exceeding ten pounds.

Mining on Native lands within Gold Field except by owner of miner's right prohibited.

8. It shall be lawful for the Governor in Council from time to time to make and when made from time to time to revoke or alter regulations for any Gold Field or any portion of any Gold Field specially applicable to lands of the following classes—

Governor empowered to make regulations for mining on Native lands.

- (1.) Lands for which a certificate has been issued under the Native Lands Acts and in upon or under which the Governor has obtained power by lease from agreement with or consent of the Native or other owners thereof to authorize mining
- (2.) Lands over which the Native title has not been extinguished and in upon or under which the Governor has by lease agreement or consent of the Native owners thereof obtained power to authorize mining

and such regulations may be made for any of the purposes specified in the eleventh section of the said Act and generally for regulating mining on such lands whether for purposes of the same kind as those mentioned in the said eleventh section of the said Act or for different purposes and every such regulation shall be valid and have the force of law notwithstanding that it may be in conflict with or in anywise repugnant to any of the provisions of the said Act and shall so far as concerns the Gold Field to which it relates control and supersede for the time it is in force any such provisions.

9. It shall be lawful for the Governor in Council to include within a Gold Field any land lying below high-water mark. Provided that when any such land abuts upon any land specified in the last preceding section such land so lying below high-water mark shall for the purposes of this Act be deemed to be land over which the Native title has not been extinguished.

Land below high water-mark may be included in Gold Field.

10. Nothing in this Act or in the said Act contained shall be held to authorize mining on private land held under Crown Grant without the consent of the owner thereof.

Mining on private land without consent not authorized.

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Governor may delegate powers.

11. 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 may deem fit all or any of the powers vested in the Governor by the preceding sections of this Act subject or not to any limitations or restrictions as the Governor may think fit and in like manner to alter or revoke any such powers.

Appeals on matters of fact under section 81 or 82 of "The Gold Fields Act 1866" how to be heard.

12. It is hereby declared and enacted that where any appeal is made under the eighty-first or eighty-second section of the said Act in cases where the appeal is on matter of fact the District Court or Supreme Court as the case may be may either order a re-hearing of the case in the Court below or may order such issues to be tried by the Court below as it may think fit or the District Court or Supreme Court may itself hear and determine such appeal either alone or by directing an issue to be tried before such Appeal Court with assessors and in the manner provided in the said Act with regard to original suits in the District Court.

Clerk of District Court to summon assessors on appeals when required.

13. The eighty-ninth section of the said Act is hereby repealed and in lieu thereof be it enacted the Clerk of every District Court holden under the said Act shall when required by the parties by notice in writing to be filed with him before any sitting of such Court or when ordered by the Court before or during any sitting of such Court cause a sufficient number of holders of miners' rights and business licenses being not less than twelve to be summoned from the neighbourhood to attend the Court as assessors at a time and place to be mentioned in the summons and either party shall be admitted to challenge any four of such persons and the Judge shall administer or cause to be administered to each of the said persons who shall be empanelled to try any issue an oath to give a true verdict according to the evidence.

Interpretation of the term "District Court" in matters of appeal from Wardens' Courts.

14. In the construction of the said Act and this Act so far as the same relates to and provides for appeals from Wardens' Courts the term "District Court" shall be understood to mean a District Court constituted under "The District Courts Act 1858" for which a Judge has been appointed with full jurisdiction and shall not include any District Court for which a Judge has been appointed with the limited jurisdiction specified in the proviso to the fourth section of "The District Courts Act 1858" but so far as the said Act gives an original jurisdiction to District Courts such original jurisdiction may be exercised by the Judge of the District Court of the District whether he has been appointed with the limited jurisdiction hereinbefore mentioned or with full jurisdiction.

Exercise of original jurisdiction of District Courts.

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