



Western Australia.

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ANNO SEXAGESIMO PRIMO

VICTORIÆ REGINÆ.

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No. XXXIII.

AN ACT to permit Mining on Private Property.

[Assented to, 23rd December, 1897.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Mining on Private Property Act, 1897.

Short title.

2. IN this Act, so far as the context permits:—

Interpretation.

“Crown Lands” shall include all lands of the Crown which have not been dedicated to any public purpose or reserved by the Governor, or which have not been granted in fee

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simple or lawfully contracted to be so granted, and which are not held under any lease or license other than pastoral leases and timber leases or licenses, and includes all lands situate between high and low watermark on the sea shore or on the margin of tidal rivers.

“Inspector” means an inspector appointed under this Act.

“Mining,” and “to mine” shall include the doing of anything necessary or convenient for the purpose of obtaining from land any precious metal, or any substance containing precious metal, or of extracting the metal from any such substance.

“Minister” means the Minister for Mines.

“Owner” includes every person having in any land a beneficial estate, legal or equitable, of freehold in possession and every mortgagee in possession.

“Precious Metals” includes gold, silver, platina, and any other metal assignable to the class “precious metals” which may be discovered in this Colony.

“Prescribed” means prescribed by this Act or by regulations made thereunder.

“Private land” includes all land which is not Crown land.

“Warden” means the Warden of a goldfield, and, with reference to land dealt with or applied for under this Act, means the Warden whose principal office is nearest in a direct line to the land in question.

“Writing” includes print and part writing and part print, and “written” has a corresponding meaning.

**3.** THIS Act shall extend to all private land which is not in a municipality and is not within two hundred yards of any well, artificial reservoir, dam, dwelling-house, manufactory or building; such land not being a garden, orchard, plantation, vineyard, church, chapel, schoolhouse, hospital, asylum, college or grounds occupied in connection therewith.

Limitation of Act.  
S.A. Act 448, of  
1888, s. 3, am., 626  
of 1895, s. 6.

**4.** THE Governor may appoint any qualified persons to be inspectors under this Act, and any inspector may enter upon, examine and report upon any private land at any convenient time during the day; but before such examination is made, at least eight clear days written notice shall be given to the occupier, if any, of the property, giving the name of the inspector and the time of the visit.

Appointment of  
inspectors, and their  
power to enter upon  
private lands.  
*Ibid.*, s. 25.

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5. A RIGHT to mine on private land may be acquired by the following methods:—

(PART I.)

I. By the resumption of private land.

(PART II.)

II. By the proclamation of private land as an alluvial gold-field.

(PART III.)

III. By compulsory mining lease.

Acquisition of right to mine on private land.  
*Ibid.*, s. 5.

### PART I.—RESUMPTION OF PRIVATE LANDS.

6. THE Governor may, on behalf of the Crown, from time to time provisionally resume the ownership of any private land for mining purposes, and such provisional resumption shall be effected by notice to the owner and occupier, and by proclamation to be published in the *Government Gazette*, and upon the publication of such proclamation such provisional resumption shall take effect: Provided that no such proclamation shall be made without the consent of the owner—

Private land may be provisionally resumed.  
*Ibid.*, s. 6, as amended by 626 of 1895.

*Ibid.*, s. 6 am. 626 of 1895 slightly altered.

- I. Unless a written application shall have been made to the Minister desiring that the land should be so resumed, and unless an inspector shall have previously certified in writing to the Minister that he has examined such land and is of opinion that payable precious metals exist therein, and that such land should be resumed for the purpose of mining;
- II. Unless two calendar months previous notice has been given in the prescribed form and manner by the Minister to the owner, and also to the occupier of such land, of the certificate of the inspector, and of the intention to proceed pursuant to this part of this Act;
- III. Unless there is a failure to show to the satisfaction of the Minister that, after the expiration of two months from the giving of such notice, the owner has the right to mine such land, and that the same is being continuously and *bona fide* mined with the number of men and in the manner which would be necessary if the said land were held under a mining lease from the Crown.

7. WITHIN six months after the publication of any proclamation of provisional resumption, the Governor, subject to the provisions of this Act, may publish in the *Government Gazette* a further proclamation, either revoking such provisional resumption wholly or in

Provisional resumption may be made absolute.  
*Ibid.*, s. 8.

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part, or making such resumption wholly or partially absolute, and upon the publication of any such further proclamation the private land described therein, in respect of which such resumption shall be made absolute, shall thenceforth belong absolutely to the Crown, and be Crown lands, and be dealt with accordingly, and a copy of such proclamation shall be registered and deposited in the office for the registration of deeds, if such land is not under the Transfer of Land Act, 1893; but if such land is under the provisions of that Act, then the Registrar of Titles on receipt of a copy of such proclamation shall enter a memorial thereof, and of the effect thereof, on the folium of the register-book evidencing the title thereto, and on all instruments of title affected thereby, and shall cancel the existing certificate and shall issue a certificate in the name of Her Majesty for the land so resumed and a certificate for the remainder of the land to the persons entitled to the same.

Purchase on  
absolute resump-  
tion.  
See *ibid.*, s. 9.

8. IF any provisional resumption shall be made absolute, compensation shall be paid for the land resumed as if the Governor had taken the same under the Lands Resumption Act, 1894, or any Act amending or substituted for the same.

Interest on purchase  
money.

*Ibid.*, s. 10.

9. INTEREST at the rate of Five Pounds per cent. per annum, from the date of the provisional resumption, shall be allowed on and added to the purchase-money mentioned in the preceding section, and shall be paid therewith estimating from the date of provisional resumption; and in the event of any private land being provisionally resumed as aforesaid, and such provisional resumption being subsequently revoked, the owner of such private land, upon the revocation of such resumption, shall receive compensation from the public revenue of the Colony for the loss and damage sustained by him by reason of such provisional resumption, which compensation the Government may recover from the person applying to have the land resumed: Provided that, in estimating the value of any land no account shall be taken of the value of any precious metals removed therefrom since the provisional resumption thereof, or known or supposed to be therein.

Effect of provisional  
resumption.

*Ibid.*, s. 11.

10. DURING the period of the provisional resumption of any private land, such private land may be dealt with for mining purposes subject to the following provisions:—

1. Under any mining license that may be granted of any such land, the licensee shall pay to the Minister, at specified intervals, a royalty of two and a-half per cent. on the gross money value of the precious metals raised therefrom.

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- ii. Every such license shall be issued subject to conditions that the licensee shall take all proper precautions for the protection of man and beast and for the preservation of timber; do no unnecessary damage to the land; crush, refine, wash, or otherwise in a miner-like manner treat and render marketable all metal obtained from the land, and keep proper accounts for inspection when required, containing all necessary information to enable the amount of royalty payable to be determined:
- iii. Every such license shall also be subject to all such other provisions as the Minister shall think desirable, or as may be prescribed, and, in particular, any such license may contain a right of renewal, or to a lease, to be exercisable in the event of the provisional resumption being made absolute:
- iv. Every person who shall apply for a mining license, in respect of any private land which for the time being shall be provisionally resumed, shall, at the time of making such application, pay to the Minister such sum as shall be deemed by the Minister to be sufficient to pay the compensation payable in the event of the provisional resumption of such land not being made absolute.
- 11.** AT the end of six months after the publication of any proclamation of provisional resumption, such resumption shall cease so far as the same shall not have previously been made absolute. Cesser of provisional resumption. *Ibid.*, s. 12.
- 12.** ON the cesser or revocation of any provisional resumption, payment shall be made by the Minister, by way of compensation for the damage occasioned by such provisional resumption and by the exercise of the powers of the Minister exercisable during the period thereof, and every dispute as to the amount of such compensation shall be heard and determined in a summary way by two or more Justices of the Peace, of whom one shall be a Resident or Police Magistrate. Compensation on cesser or revocation of provisional resumption. *Ibid.*, s. 13.
- 13.** EVERY mining lease or license granted in respect of any private land absolutely resumed, shall be subject to the provisions contained in subdivisions one, two, and three of the tenth section, as affecting mining licenses granted during the period of provisional resumption. Terms of leases after absolute resumption. *Ibid.*, s. 14.
- 14.** ALL royalties required to be reserved by this part of this Act and received by the Minister in respect of mining on private land, either provisionally or absolutely resumed, shall, after deduction by the Minister of a royalty due to the Crown calculated at the rate of Division of royalties. *Ibid.*, s. 15.

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Two pounds ten shillings per centum thereon, be payable to the person, if any, who, but for the resumption of such private land, would for the time being have been entitled as owner to the first right to mine thereon.

Metal not to be considered in assessing purchase-money or compensation.  
*Ibid.*, s. 16.

15. NO allowance shall be made in the assessment of any purchase money or compensation payable under this part of this Act for any precious metal removed from any private land after any provisional resumption thereof, nor for any such metal known or supposed to be thereon.

## PART II.—PROCLAMATION OF PRIVATE LAND AS ALLUVIAL GOLDFIELD.

Private land may be declared an alluvial goldfield.

*Ibid.* s. 17 as amended by 626 of 1895.

16. THE Governor may, after giving two months' notice to the owner and occupier of any private land, declare by proclamation in the *Government Gazette* that such land shall be an alluvial goldfield: Provided that no such private land shall be declared an alluvial goldfield except under conditions similar to those required in cases of provisional resumption by subdivisions one, two, and three of the sixth section, but so that the certificate of the inspector required by the said section shall refer to the existence of payable alluvial gold instead of to the existence of payable precious metals. Upon the publication of a proclamation declaring any private land an alluvial goldfield, the following consequences shall ensue:—

- i. The private land the subject of such proclamation shall, for all the purposes of all laws in force for the time relating to alluvial goldmining, be deemed to be Crown Lands and an alluvial goldfield; and the said land and all persons entering thereon for mining or other purposes shall be subject to the Warden's jurisdiction, and all laws and regulations in force for the time being relating to alluvial goldmining on Crown Lands shall apply to such land and persons, and persons shall be entitled to mine upon such land subject to such laws and regulations and to this Act:
- ii. Every person mining upon or occupying any claim upon any such private land shall pay to the Warden a weekly rent of Two shillings therefor, in advance.

Provided as follows:—

- i. Private land declared an alluvial field may be resumed without compliance with subsections two and three of the sixth section.
- ii. No person shall mine on any such land until he has obtained a special license for mining thereon, which

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special license shall be in force until the field shall cease to be a goldfield or is resumed, and shall be issued by the Minister to the applicant on payment of a fee of One pound.

- III. Every person mining on or occupying any such private land without having duly paid the rent of his claim, or mining on any such land without having obtained such special license, shall be liable, on conviction, to a fine not exceeding Twenty pounds.

17. THE owner of any private land declared an alluvial goldfield may, after the expiration of six calendar months from the date of the publication of the proclamation, by written notice given to the Minister, require the said land to be absolutely resumed; and if such land shall not be absolutely resumed within one month after the giving of such notice, such land shall thereupon cease to be an alluvial goldfield: Provided that in the case of an alluvial goldfield resumed at the request of the owner, pursuant to this section, there shall, on the issue of any lease or license for alluvial goldmining, be reserved to the owner one-half of the rents received from license holders working on such land. All moneys received by the Warden for rent of any claims on any private land declared an alluvial goldfield pursuant to this part of this Act shall, after payment thereof to the Minister of a royalty calculated at the rate of Two pounds ten shillings per centum thereon, be paid to the person who, but for such declaration, would for the time being have been entitled as owner to the first right to mine thereon.

Division of rents.  
*See ibid.*, s. 18.

18. THE Governor may, by proclamation to be published in the *Government Gazette*, declare that any private land declared to be an alluvial goldfield shall cease to be a goldfield, and upon the publication of such proclamation all powers arising by virtue of the original declaration shall cease to be exercisable. If any land absolutely resumed pursuant to this Act shall cease to be used for mining purposes for six months the Minister may sell the same, but the person who but for such resumption would have been the owner shall have the prior right to purchase such land, and in the event of such person exercising such right the price to be paid therefor shall be the amount paid on resumption.

Private land to cease to be goldfield on proclamation.  
*Ibid.*, s. 20.

### PART III.—COMPULSORY MINING LEASES.

19. THE inspector after examining any private land shall report to the Minister, in the prescribed manner, as to whether the owner should mine or allow mining on such land.

Inspector's report.  
*See ibid.* s. 22.

If the inspector reports that he has examined such land, that payable precious metals exist thereon, and that the owner of such

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land should mine, or allow mining therein, notice of such report and a copy thereof shall forthwith be served upon such owner, who at any time within two months of such service may apply to the Minister to review and disallow such report, and the Minister shall thereupon proceed to review such report, and may disallow or confirm the same.

If within the two months as aforesaid the owner does not apply to the Minister to review and disallow the inspector's report, the report shall be deemed to be confirmed.

Application to owner of private land for mining lease.

See *ibid.*, s. 21, and see 626 of 1895, s. 7.

First Schedule.

Second Schedule.

**20.** ANY person may make an application in the form in the First Schedule hereto, or to that effect, to the owner of any private land, whether the inspector has reported thereon or not, to grant the applicant a mining lease of any portion of such land in a prescribed shape, not exceeding twenty-four acres, for mining; and if the owner does not assent to such application within two months after receiving the same, he shall be deemed to have refused the application, and the applicant may give notice to the Minister of any refusal of the application, and, if an inspector has not reported on the land may apply in the form of the Second Schedule or to that effect for a report.

If the inspector's report is in favour of mining and is confirmed, the owner must grant lease.  
See *ibid.*, s. 22 and sec. 1626 of 1895, s. 7.

**21.** IF the inspector has reported that he has examined the land and that payable precious metals exist thereon, and that the owner of such land should mine or allow mining thereon, and if such report has been confirmed, the owner shall have no further right to refuse to grant a mining lease for which any person makes application as in this Act provided.

Lease to include obligation by lessee to pay royalty to Crown, which is to be in lieu of payment under permit, if any, by owner.

**22.** THE owner of any private land who grants, or on whose behalf there is granted, under this Act a mining lease, is hereby required on behalf of the Crown to bind the lessee by such lease to pay to the Crown a royalty at the rate of two and a-half per cent. on the gross money value of the precious metals raised from such land, and the Crown shall be entitled to enforce such payment from the lessee as if the Crown were the lessor, and such liability on the part of the lessee shall stand in lieu of the payment under a permit, if any, granted to such owner in respect of the land comprised in such lease.

Terms of mining lease.  
*Ibid.*, s. 23.

**23.** IN the event of the owner of any private land, in respect whereof an application for a mining lease is duly made, not refusing in the prescribed manner and within the prescribed time to grant a mining lease, or not being entitled to refuse to grant the same, the following consequences shall ensue:—

1. If the owner and the applicant agree upon the terms of the mining lease, the same shall be granted accordingly, but



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shall include a clause to the effect of the form in the Third Schedule hereto.

Third Schedule.

11. If the owner and the applicant do not so agree—

(a) The owner shall, subject to the provisions of this Act, grant to the applicant a mining lease of the private land, the subject of the application, at a rent of One pound per acre or such larger sum as may, on the owner's application, be assessed by the Warden, and subject to the payment of the royalty of two and a-half per cent. as aforesaid to the Crown, and such lease shall be to the effect of the form in the Fourth Schedule.

Fourth Schedule.

(b.) Such lease shall be for the term of twenty-eight years, and shall comprise a convenient right of way to the land to be leased, and shall contain all such powers and provisions as shall be prescribed; and shall also contain proper provisions compelling the lessee to take all proper precautions for the preservation of timber, and for preventing any unnecessary damage to the land, or injury to man or beast.

(c.) Such lease shall contain a right of re-entry by the owner of the private land on non-payment of rent or royalty for such time as may be prescribed, or breach of covenant by the lessee.

Provided as follows:—

- I. In assessing the rent to be reserved by any such lease the Warden assessing the same shall take into consideration any special damage to the land, or to any adjacent land of the same owner, likely to be caused by mining or by obtaining access to the land.
- II. In the event of the Warden assessing any such rent being of opinion that any special injury is likely to arise to any private land of the same owner by reason of any mining lease being granted, the Warden may order that such land shall be purchased in the prescribed manner by the applicant for the lease, and, if the price is not agreed upon, such order shall be deemed equivalent to a submission, signed by the owner and the applicant, dated of the day of the making of the order, and referring the question of the price to the decision of two arbitrators in accordance with the Arbitration Act, 1895.
- III. There shall be an appeal in the prescribed manner from the decision of the Warden to the Minister.

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Fifth Schedule.

- iv. In the event of the applicant for a mining lease being dissatisfied with the rent assessed, or in the event of his being unwilling to purchase any land pursuant to the order of the Warden, such applicant may give notice to the owner of such land in the form in the Fifth Schedule, or to that effect, abandoning the claim to such lease.
- v. The costs of all proceedings before the Warden or the Minister, in respect of the matters herein referred to, shall be paid by the applicant for the lease.

Master of Supreme Court to grant lease on unlawful refusal of owner.  
*Ibid.*, s. 24.

**24.** IF the owner of any private land, not being entitled so to do, neglects or refuses to grant a mining lease pursuant to this Act, the Master of the Supreme Court shall, subject to the provisions of this Act, grant such lease in the prescribed form as if he were agent in that behalf for the owner, and such lease, when duly executed by the Master and by the lessee, shall, on application and on payment of the proper fee, be registered by the Registrar of Titles where the land is under the Transfer of Land Act, 1893, and where the land is not under that Act a memorial of such lease shall, on payment of the proper fee, be registered in the office for the registration of deeds, and immediately on such registration the term of years so granted shall vest in the lessee and the lease shall have effect in all respects as if the same had been executed by the owner of such private land.

Provided as follows:—

- i. The owner of such private land shall, in the event of his refusal to grant such lease as aforesaid (such refusal not proceeding from incapacity), pay all the costs, charges, and expenses connected with the obtaining and granting of such lease.
- ii. The Master of the Supreme Court shall from time to time, until the owner of the private land comprised in such lease ratifies the same, enforce in his own name the lessor's rights thereunder, and shall hold the rents and royalties thereby reserved upon trust for the owner of such private land; but shall be entitled to deduct a charge of Two pounds ten shillings per centum for collecting the same, and shall not be required to invest any accumulations of rent or royalty.

Governor may revoke mining permits.

**25.** THE Governor may, by notice published in the *Government Gazette*, revoke any one or more mining permits issued under the Land Regulations, as from fourteen days after the publication of such notice, and after the expiration of such fourteen days every mining permit to which such notice applies shall cease to be valid.

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**26.** THE Governor may from time to time make, and from time to time repeal or alter regulations for carrying this Act into effect, and upon the making thereof such regulations shall be published in the *Government Gazette*, and within fourteen days after their publication shall be laid before both Houses of Parliament, if Parliament is then sitting, and, if Parliament is not then sitting, within fourteen days after the next assembling of Parliament, and such regulations when so published shall have the force of law until repealed or altered as aforesaid or disallowed by both Houses of Parliament.

Regulations.

**27.** PROCEEDINGS may be taken for all offences against this Act before any two Justices of the Peace in Petty Sessions.

Enforcement of penalties.

**28.** NOTHING in this Act contained shall apply to an area of Two hundred and sixteen thousand acres of land the subject matter of a contract of sale dated the eighteenth day of June, One thousand eight hundred and ninety, and made between Sir Frederick Napier Broome, K.C.M.G., acting on behalf of the Government of Western Australia of the one part and the Hampton Lands and Railway Syndicate, Limited, of the other part.

Act not to apply to Hampton Lands and Railway Syndicate, Limited.

In the name and on behalf of the Queen I hereby assent to this Act.

GERARD SMITH, Governor.

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Section 20.

### First Schedule.

#### FORM OF APPLICATION FOR MINING LEASE.

*The Mining on Private Property Act, 1897.*

To [name and address of owner].

I [name, address, and occupation of applicant] hereby apply to you to grant me, in accordance with the Mining on Private Property Act, 1897, a mining lease of [describe particularly the portion of land required], which said piece of land contains [area as nearly as possible]. And I hereby undertake to execute such mining lease upon such terms as shall be agreed upon, or upon the basis mentioned in the said Act and the Regulations made thereunder.

Dated this                      day of                      18 .

C.D.

Section 20.

### Second Schedule.

#### NOTICE BY APPLICANT OF REFUSAL OF OWNER TO GRANT LEASE.

*The Mining on Private Property Act, 1897.*

To the Honourable the Minister for Mines.

I [name, address, and occupation of applicant] hereby give you notice that on the day of 18 , I applied, in accordance with the Mining on Private Property Act, 1897, to [name and address of person to whom application was made] for a mining lease [here describe land and state area], and that the said                      has refused to grant me such lease, and I hereby request that an inspector be instructed to report upon the said land pursuant to the Act.

Dated this                      day of                      18 .

C.D.

Section 23.

### Third Schedule.

#### CLAUSE TO BE INSERTED WHERE OWNER AGREES TO GRANT LEASE.

*The Mining on Private Property Act, 1897.*

THE said demise is to subsist from the                      day of                      18 for the term of [not more than 28] years, at the yearly rent of                      pounds, payable by equal quarterly payments commencing on the                      day of                      next, the said (lessee) his executors and administrators paying to the Minister for Mines, on behalf of the Crown, half-yearly, on the                      day of                      and the day of                      in every year a royalty at the rate of Two pounds ten shillings per centum on the gross money value of the precious metals raised from the demised premises during the previous half-year.

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## Fourth Schedule.

Section 23.

## FORM OF LEASE.

*The Mining on Private Property Act, 1897.*

THIS Indenture made this                    day of                    18                    between A.B. of                    of the one part, and C.D. of                    of the other part, witnesseth as follows:—

1. The said A.B. demises unto the said C.D., his executors and administrators the lands described in the Schedule hereto with the legal or usual appurtenances for the purpose of mining for precious metals pursuant to the Mining on Private Property Act, 1897 [and so that for such purpose the said C.D., his executors and administrators and his and their agents and workmen may have free passage over the way described in the same Schedule]: Together with liberty for the said C.D., his executors and administrators, his and their agents and workmen in and upon the said land, to construct races, drains, dams, reservoirs, roads and tramways, and to dig, sink, drive, make and use all such pits, shafts, levels, watercourses and other works necessary or convenient for mining as aforesaid on the demised premises, and also to appropriate and use such part of the demised premises, either underground or on the surface, as may be requisite as well for placing and heaping the waste refuse and rubbish which may be worked therewith from time to time, as for washing and obtaining such precious metals and separating from them all the substances mixed with them. And for the purposes aforesaid to erect, make, and employ all such fire, steam, water and other engines, buildings, smelting works, furnaces, workmen's houses, shops, crushing mills, sheds or hovels, machinery and works, as may be proper and reasonable. The said demise is to subsist from the                    day of                    18                    for the term of twenty-eight years at the yearly rent of                    pounds payable by equal quarterly payments commencing on the                    day of                    next, the said C.D., his executors and administrators paying to the Minister for Mines on behalf of the Crown half-yearly on the                    day of                    and the                    day of                    in every year a royalty at the rate of Two pounds ten shillings per centum on the gross money value of the precious metals raised from the demised premises during the previous half year.

2. The said C.D. for himself, his heirs, executors and administrators covenants with the said A.B., his heirs and assigns that the said C.D., his executors and administrators (hereinafter called the Lessees) will pay to the said A.B. his heirs and assigns (hereinafter called the Lessors) the rent and will pay to the Minister for Mines the royalties aforesaid at the respective times aforesaid. And will defray all outgoings chargeable by law on the demised premises. And will not use the demised premises for any other purpose than for mining as aforesaid. And will during the continuance of the term work and carry on such mining operations in a skilful and workmanlike manner, and according to the said Act and any Regulations made from time to time thereunder. And will crush, refine, wash, and otherwise in a miner-like manner render marketable all precious metals obtained from the demised premises. And will also properly secure and keep open with timber, stone, or other durable means the pits and shafts to be sunk or made on the demised premises, and make and maintain sufficient walls and fences around all such pits and shafts for the protection of all persons, and so as to prevent access thereto by any sheep or cattle. And will not place or leave any waste or dead heaps of refuse or rubbish near to any river, brook, or channel of water so as to be liable to be carried away by floods or other natural causes. And will during the term keep the demised land and all mines and works thereon free from all unnecessary injury and damage, and all levels, drifts, shafts, pits, pumps, watercourses, races, drains, dams,

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reservoirs, roads, tramways, buildings, houses, sheds, washing places, puddles, and other conveniences in good order and repair, and at the end or determination of the term will deliver up the same in such order and repair. And will during the term keep employed in mining on the demised premises the same number of men as would be required under a lease from the Crown of a like area of land in a goldfield. And will preserve from injury by cattle or otherwise all timber, timber-like trees and saplings growing on the demised premises, and will not fell, cut, or destroy the same without the consent, in writing, of the Lessor first obtained. And will at all times during the term cause to be kept correct and proper books of account which shall give accurate entries of the several precious metals raised from the demised premises during the term, and particulars of all assays and sales made of the same respectively so as to ascertain the royalties payable under these presents. And will half-yearly on the                    day of                    and the day of                    in every year deliver to the Lessors or their agent and to the Minister correct extracts from such books of account verified by a statutory declaration before a justice of the peace, so as to show what royalties are payable for the preceding half-year. And will permit the Lessors or their agent and the Minister and any person appointed in writing by him at all reasonable times to inspect the said books of account, and take extracts therefrom.

3. Provided that the Lessors may at all times enter upon and inspect the condition of the demised premises and the working thereof, and may also, if the rent or royalties hereby covenanted to be paid to the Minister for Mines are in arrear and unpaid for twenty-one days after the same are due respectively, and if the Lessees fail to discharge any of their other liabilities under this demise, enter upon and repossess the demised premises as if this demise had not been executed.

4. The Lessees shall be at liberty to determine these presents by giving to the Lessors three calendar months' notice in writing to expire on any of the days heretofore appointed for the payment of rent of the Lessees desire to determine these presents but so that no such notice shall be valid unless the Lessees' liabilities are discharged at or before the expiration thereof.

5. The said A.B. for himself, his heirs, executors, administrators, and assigns covenants with the said C.D. his executors and administrators (1.) That so long as the Lessees' said liabilities shall be discharged they shall occupy the demised premises without interruption from the Lessors. (2.) That the said Lessees' liabilities being discharged, they and he may during three calendar months from the expiration or determination of the term remove from the demised premises all precious metals brought to the surface previously to such expiration or determination, and also all such additions to the premises (whether plant or otherwise) made during the demise as shall not consist of earth, stone or brick, or be essential to the support of the premises as the Lessors shall not by one calendar month's written notice previously to such expiration or determination signify their intention of purchasing. And it is declared that, if the price is not agreed upon, at or before the termination of the tenancy, the Lessors and Lessees shall be deemed to have referred the question of price to two arbitrators as if by a submission signed by them and dated as of the last day of the tenancy.

### SCHEDULE.

*[The demised premises. Way granted, if any.]*

In Witness whereof the parties hereto have hereto set their hands and seals the day and year first above written.

# 61° VICTORIÆ, No. 33.

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## *Mining on Private Property.*

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Fifth Schedule.

Section 23.

NOTICE ABANDONING CLAIM TO LEASE.

*The Mining on Private Property Act, 1897.*

To [*name and address of owner*].

I, [*name, address, and occupation*] hereby give you notice that I abandon my claim to a mining lease of the land referred to in my application, being [*here shortly describe the land*].

Dated this                      day of                      18 .

C.D.