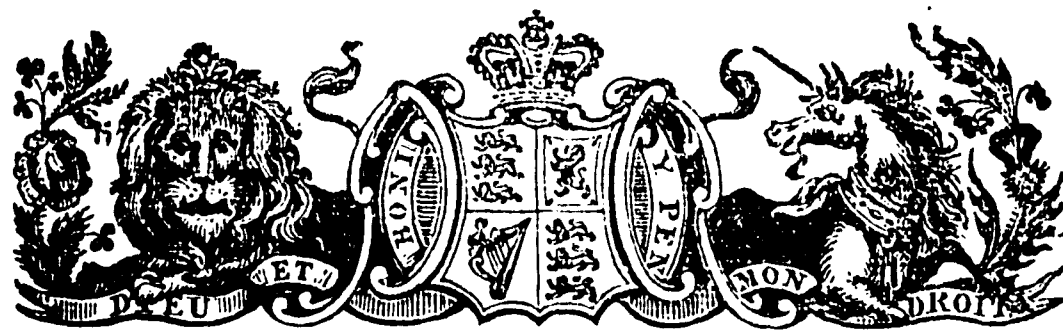


VICTORIA.



ANNO DECIMO QUINTO

VICTORIÆ REGINÆ.

By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.

No. XV.

An Act to restrain by summary Proceeding unauthorised Mining on Waste Lands of the Crown.
[Assented to 6th January, 1852.]

BE IT ENACTED by His Excellency the Lieutenant Governor of the Colony of Victoria by and with the advice and consent of the Legislative Council thereof that from and after the passing of this Act any person who shall be found mining or digging for any ore of any nature whatsoever in or upon any Waste Lands of the Crown within the said Colony without having previously obtained from the Lieutenant Governor of the said Colony or from some person by him in that behalf authorised a License or authority in writing in conformity with the Government regulations in such case made and provided or with any future regulations to be made or provided not increasing the amount of fee rent or return payable at the time of the passing of this Act or who shall mine or dig as aforesaid after such License or authority shall have been determined by forfeiture or otherwise and every person not being a licensed occupant of Waste Lands of the Crown who without such License or authority as aforesaid shall exercise or carry on any trade or calling on those Waste Lands shall forfeit and pay the following penalties that is to say for the first offence a sum not exceeding five pounds for the second offence a sum not exceeding fifteen pounds and for the third and every subsequent offence a sum not exceeding thirty pounds Provided that no information shall be laid or brought for any second or subsequent offence until the expiration of seven clear days from the date of the previous conviction.

II. That it shall be lawful for any Commissioner of Crown Lands upon the complaint of any party licensed or authorised as aforesaid that any person has encroached upon the portion of Waste Lands of the Crown whereon such party was lawfully mining or digging for ore under that License or authority to proceed forthwith to the spot and to inquire into the case and on his own view or if necessary by evidence on oath which oath he is hereby empowered to administer to hear and determine the same in a summary way and if it shall appear to such Commissioner either on view or by evidence as aforesaid that such person has so encroached by occupying mining digging or undermining any such portion of Waste Lands or by any other mode or in any other manner whatsoever

Penalties for unauthorised Mining or Digging for Ore on Waste Lands of the Crown.

Commissioners to determine as to encroachments by licensed persons.

Penalty for resisting
Commissioners.

whatsoever it shall be lawful for such Commissioner to cause the person so found to be encroaching as aforesaid his implements goods and chattels to be removed from the portion so encroached upon and any person who shall resist the said Commissioner or prevent him or his assistants from causing such person so found to be encroaching his implements goods and chattels to be removed as aforesaid shall forfeit and pay for every such offence a sum not exceeding ten pounds.

Fee for decision of
Commissioner.

III. That it shall be lawful for any such Commissioner to charge and receive for the decision of any disputed question respecting encroachments upon a complaint made to him as aforesaid a fee not less than one pound nor more than twenty pounds which fee shall be paid by the person against whom such decision shall be made and shall be recovered in the manner herein prescribed for recovering penalties under the provisions of this Act and when recovered shall be paid to the Treasurer of the said Colony and be applied to such charitable uses as the Lieutenant Governor of the said Colony shall by warrant under his hand direct.

Mode of recovering
penalties.

IV. That it shall be lawful for any two or more Justices of the Peace to order and adjudge any person convicted of offending against any of the provisions of this Act either on the confession of such offender or upon the oath or oaths of one or more credible witness or witnesses to forfeit and pay the penalties hereinbefore respectively imposed and in case any of such penalties be not forthwith paid it shall be lawful for such Justices by their warrant to commit the person convicted in any such penalty to any of Her Majesty's Gaols for a period not exceeding one calendar month from the date of such warrant where the penalty inflicted remaining unpaid shall not exceed five pounds two calendar months where the said sum shall exceed five pounds and not exceed fifteen pounds and six calendar months where the said sum shall exceed fifteen pounds unless the said respective sums so adjudged to be paid shall be sooner paid.

Power to apprehend.

V. That it shall be lawful for any Commissioner Inspector Constable or other person specially appointed by the Lieutenant Governor of the said Colony to apprehend any person who shall be found offending against any of the provisions of this Act and to convey him before two or more Justices of the Peace to be dealt with in such manner as is hereinbefore directed.

Power to issue war-
rants.

VI. That it shall be lawful for any Justice of the Peace upon oath being made before him that any person hath committed an offence against any of the provisions of this Act to issue his warrant to apprehend and bring before any two Justices of the Peace the person so charged to be dealt with as directed by this Act.

Appropriation
Fines. of

VII. That all fines and penalties recovered under this Act not specially appropriated shall be applied and go one moiety to Her Majesty Her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof and the other moiety to the use of the informer or party prosecuting if a person specially appointed as aforesaid if not such person the whole to Her Majesty Her Heirs and Successors for the uses aforesaid.

Interpretation clause.

VIII. That the words "mining and digging" shall be understood to include any mode or method whatsoever whereby the soil earth or any stone or rock may be disturbed removed carted carried washed sifted smelted refined crushed or otherwise dealt with for the purpose of obtaining ore therefrom whether the same may have been previously disturbed or not Provided that nothing in this Act contained shall be construed to extend to any preliminary search or enquiry for the purpose merely of discovering any ore or minerals in any particular locality or part of such Waste Lands.

IX.

IX. That all proceedings under the provisions of this Act shall be had in a summary way and no such proceeding shall be quashed for want of form or removed by *certiorari* or otherwise into the Supreme Court of the Colony of Victoria and every conviction of every person offending against any of the provisions of this Act in the form and to the effect set forth in the schedule marked A to this Act annexed or as near thereto as circumstances will permit shall be valid to all intents and purposes.

X. That this Act shall continue in force for two years from the passing thereof.

SCHEDULE A.

FORM OF CONVICTION.

COLONY OF VICTORIA }
TO WIT. }

Be it remembered that on the _____ day of _____ in the year of our Lord One thousand eight hundred and fifty-_____ at _____ in the said Colony of Victoria A.B. of _____ is convicted before us two of Her Majesty's Justices of the Peace for the said Colony for that he the said A.B. on the _____ day of _____ in the year of our Lord One thousand eight hundred and fifty-_____ at _____ in the said Colony

(Here state the offence briefly).

and we adjudge the said A.B. for his said offence to forfeit and pay the sum of £ _____ to be paid and applied according to law and if the said sum be not paid forthwith we adjudge the said A.B. to be imprisoned in Her Majesty's Gaol at _____ for the space of _____ calendar months unless the said sum shall be sooner paid

Given under our hands and seals the day and year first abovementioned at

J. S.

(L.S.)

J. S.

(L.S.)