BRITISH COLUMBIA.

V. R.

No. 1. An Ordinance to promote the Drainage of Mines.

[1st February, 1864.]

WHEREAS great inconvenience has been experienced in the prosecution of Mining operations in this Colony, for lack of authority for the creation of Mining Drains, and it is expedient by Statute to provide for the same in manner hereinafter appearing; Preamble.

Be it enacted by the Governor of British Columbia, by and with the advice and consent of the Legislative Council thereof as follows:

From and after the date of the passing of this Act,

I. It shall be lawful for the Gold Commissioner of any district in the Colony, upon the application hereinafter mentioned, to grant full license and authority to any Free Miner or Miners, Company, or Companies of Free Miners, to enter into and upon any lands in British Columbia, for the purpose of constructing a drain or drains for the drainage of Mining ground; and for that purpose to enter into an agreement or agreements for a Grant or License as hereinafter mentioned, with any Free Miner or Miners, Company, or Companies of Free Miners. Gold Commissioner may grant License to construct Mining Drains.

II. Every such application as aforesaid shall contain a statement of the extent and nature of the privileges sought to be acquired, and the maximum amount of drainage toll (if any) proposed to be charged for the use or benefit to be made or derived from the drainage works thereby proposed to be constructed. Form of Application.

III. It shall be lawful for the said Gold Commissioner to grant such rights of entry and taking toll as aforesaid, not however exceeding the maximum amount mentioned in such application, for such term of years not exceeding ten years, and to grant such powers of assessing, levying, and collecting such sums of money by way of drainage toll, from all persons using, or in the opinion of the said Gold Commissioner benefitted by such drain or drains, and with, under, and subject to such other terms, conditions, and restrictions as to such Gold Commissioner in his discretion may seem just and reasonable. Gold Commissioner may grant right of entry and taking Toll.

IV. No such application for a grant or license, or agreement for a grant or license, shall be received by such Commissioner until he shall have been satisfied that the notice of application, next hereinafter mentioned, has been given. Notice of intended application.

At least ten clear days notice in writing, of every such intended application shall be given by the applicant or applicants, by affixing the same to some conspicuous part of the ground intended to be affected by such application, and a duplicate of such notice shall be given at the same time, or as near thereto as may be, to the Gold Commissioner.

Necessary Covenants in a Drainage License.

V. Every such grant or license shall contain covenants by the grantees to construct such drain or drains, and have the same in effective working order, within a time certain to be therein named, and to keep such drain or drains, or such portion or portions thereof as such Commissioner shall from time to time in that behalf prescribe, in thorough working order and repair, and free from all obstructions, and of sufficient size and in all respects proper for efficiently performing the proposed work, with power to the Gold Commissioner from time to time to order any inspection and, on any complaint, to order any necessary repairs or alterations to be done within a reasonable time, to be limited by him; and if not then done by the grantees, that such repairs or alterations may be handed over by the Gold Commissioner for execution to any other person, persons, or company, being Free Miners. And the costs thereof may be levied by the said Gold Commissioner by sale of all or any part of the property of the grantees, including the said tolls (but subject to the conditions of the grant or license under which the same shall be held), and also convenants to make proper Tap-drains, in a reasonable time, from or into any adjacent claims, upon being required so to do by the owners thereof, or any authorized person or persons on their behalf, and on neglect or default so to do to suffer the parties desirous of such Tap-drains to make them themselves, and in which case the parties so making and using such Tap-drains shall only be chargeable with one half the usual rates of drainage toll, or such other proportion of toll as the Gold Commissioner shall in that behalf prescribe, and all such other proper covenants, conditions, and stipulations as may be introduced by such Gold Commissioner into such Grant or License, for ensuring the better construction, maintenance, and repairs of the said drains and drainage works, and for the protection of the owners of adjacent claims.

An agreement for a License to include these Covenants.

VI. And every such agreement as aforesaid, for any such Grant or License as aforesaid, shall be held to include an agreement for such Covenants. And every Grant of a power to enter any lands in the Colony to make drains, shall include a power to enter and make any Tap-drains as aforesaid; but in the case of Tap-drains, only three days previous notice, affixed as aforesaid, shall be required.

Compensation for damage.

VII. The Gold Commissioner alone, or (if desired by either party) with the assistance of a Jury of five Free Miners, which he is hereby authorized to summon for that purpose, may ascertain whether any and what compensation shall be paid for any damage which may be caused by any such entry or construction as aforesaid; and by any order under his hand prescribe by, and to whom, and when the same shall be paid.

Saving of Rights of the Crown.

VIII. Provided nevertheless that nothing herein contained, shall be deemed or construed to affect, limit, or abridge any of the rights of Her Majesty, Her Heirs or Successors in, or to, any of the Crown lands of this Colony.

Saving of rights of way and water.

IX. And no such Grant, or License, or agreement therefor, shall be valid unless the same shall contain a reservation of the public rights of way and water, in such manner, direction, and extent as the Gold Commissioner shall from time to time direct.

X. Any person wilfully refusing or neglecting to obey any lawful order of the Gold Commissioner, in relation to any payment of toll or compensation, or to any drain, or other matter, or thing whatsoever, that shall be by him authorized, prescribed, or required to be done in or under this Act, or in or under any Grant, or License, or agreement to be made under or by virtue of this Act, shall on being summarily convicted before any Justice of the Peace or Gold Commissioner, be liable to a fine not exceeding £50, or to an imprisonment not exceeding three calendar months. Penalty on infraction of any provision of the Act.

XI. Provided nevertheless that in case the Grantees as aforesaid, shall be desirous of abandoning their respective Grants or Licenses as aforesaid, they shall give twenty clear days notice thereof in writing, by affixing the same and delivering a duplicate as hereinbefore mentioned of their intention so to do. Abandonment of Drainage License.

XII. In the construction of this Act the expression "Gold Commissioner," shall be deemed and taken to include Assistant Gold Commissioners, and Justices of the Peace acting as Gold Commissioners, under any special authority, or any other person lawfully exercising the jurisdiction of a Gold Commissioner for the locality referred to. Interpretation Clause.

XIII. This Ordinance may be cited for all purposes as "The Mining Drains Act, 1864." Short Title.

Passed the Legislative Council the 30th January, A. D. 1864,

CHARLES GOOD,
Clerk.

Received my assent this first day of February, A. D. 1864,

JAMES DOUGLAS,
Governor.