BRITISH COLUMBIA.

V. R.

No. 4. An Ordinance to extend and improve the Laws relating to Gold Mining.

[26th February, 1864.]

WHEREAS, from the increased extent and importance of Gold Mining in British Columbia, it is requisite to make further provision as to the holding, sale, transmission, and disposal of claims and interests in claims, and to facilitate the creation of partnerships, and also to confer privileges under certain restrictions on free miners associating together for the more economical and systematic drainage of mining ground, and to raise revenue from the duties upon the registration of various mining matters; Preamble.

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

1. From and after the passing of this Act, so much of clause thirty one (31) of the Gold Fields Act, 1859, as relates to the times of meeting of the Mining Board shall be amended to read as follows:

The Mining Board shall meet at such times as a majority of the said Board shall decide, and one-half of the members of the said Board shall constitute a quorum. Provided nevertheless that it shall be lawful for the Gold Commissioner, when and so often as in his opinion occasion shall require, to call together such Mining Board. Mining Board Meetings.

2. Section thirty three (33) of the said Gold Fields Act, 1859, shall be repealed, and the following provisions substituted in lieu thereof: Repeals Section 33 of Gold Field's Act, 1859.

The General Election of members of the Mining Board shall be held on such day, in each year, as the Gold Commissioner in each District shall appoint; Election of Mining Board.

And the Gold Commissioner shall fill by appointment all vacancies which may arise in the said Board, and when the same may occur, and such appointees shall hold office until the next General Election. Vacancies in the Board

3. Section thirty five (35) of the said Gold Fields Act shall be amended by striking out the words Gold Commissioner in the first line of the said section. Mining Board may act without presence of Gold Commissioner.

4. The words Gold Commissioner shall be and is hereby struck out from clause thirty six (36) of the said Gold Fields Act, 1859, wherever the same may occur therein, and in lieu thereof the words "majority of the said Mining Board" shall be inserted throughout such clause, which shall be read and construed accordingly, reserving nevertheless to the Gold Commissioner the power hereinbefore specified in clause I. of this Act. Mining Board to manage its internal affairs.

5. Upon complaint being made to him, the Gold Commissioner is hereby empowered to order all mining works to be carried out in such manner as he shall think necessary for the safety of the public, or the protection of their rights, or the interest of the holders of claims adjoining to or affected by any such works, and to order any abandoned works to be either filled up or sufficiently guarded to his satisfaction, at the cost of the parties who may have constructed the same, or in case such parties shall be absent then to make such order in the premises as to such Gold Commissioner shall seem expedient. Protection against dangerous works.

Hill or Tunnel Claims.

6. All claims situated on the banks of or fronting on any natural channel, stream, ravine, or water course, shall have a base line drawn parallel to the channel of the stream on which they may be located, such base line to constitute the frontage of such claims, and to be marked by posts of the legal size placed at intervals of one hundred feet. Lines drawn at right angles thereto to constitute the side lines or dividing lines between claims.

Gold Commissioner may refuse to record certain Tunnel Claims.

7. Provided also that the Gold Commissioner shall have power to refuse to record any hill or tunnel claim on any creek, which claim or any part thereof shall include or come within two hundred feet of any gulch or tributary of such creek.

Gold Commissioner may decide all mining partnership disputes.

8. Clause seventeen (17) of the Gold Fields Act, 1859, is hereby repealed.

Bed-rock Flumes.

Power to Gold Commissioner to authorize Bed-rock Flumes.

9. It shall be lawful for the Gold Commissioner to grant, or agree to grant, rights of entry on or under any lands in the Colony, for the purpose of constructing, laying, and maintaining Bed-rock Flumes, for such terms, not exceeding ten years, with, under, and subject to such of the conditions and stipulations hereinafter mentioned with regard to Bed-rock Flumes, as in the opinion of such Gold Commissioner the interests of mining in his District, for the time being, may render advisable. Provided that every such grant or agreement shall contain a proper reservation of the rights of the Crown, and of public rights of way and water, and reservations of land for Public or Govermental purposes, and (so far as consistent with the objects of such grant) a reservation of private rights arising for the time being.

Who may be a Bed-rock Flume Company.

10. Three or more free miners may constitute themselves into a Bed-rock Flume Company within the meaning of this Act, and when duly authorized as lastly hereinbefore mentioned may enter upon any river, creek, gulch, ravine, or other water course in the Colony, for the purpose of constructing and laying a Bed-rock Flume therein, and when not otherwise expressed in such authority as aforesaid, with the rights and privileges and under the limitations and restrictions hereinafter specified.

Privileges of and requirements from Bed-rock Flume Companies.

11. Any company so authorized as aforesaid, and organized under the provisions of this Act, shall be entitled to enter upon any new and unworked river, creek, gulch, ravine, or water course, and locate a strip of ground one hundred feet wide and two hundred feet long, in the bed of such stream, gulch, ravine, or water course, to each man of the persons constituting such company, and shall have and enjoy the right of way from their upper line to extend the said flume for a further distance of five miles up the stream, gulch, ravine, or water course, in the bed thereof. Provided that such company shall for each of the men constituting the same, construct and lay at least fifty feet of flume during the first year, and one hundred feet annually thereafter.

Free Miners may lay Bed-rock Flumes above Bed-rock Flume Company's Claim.

12. In case any free miner or miners shall enter upon, take up, and legally work any ground above the claim of the said Bed-rock Flume company, and within the limits of their right of way, after the said company shall have become organized and located according to the provisions of this Act, such company shall be entitled to enter upon such claim or claims for the purpose of cutting a channel to and into the bed-rock if necessary, and of laying their flume through such claim or claims.

Provided that such channel shall not be cut wider than necessary for that purpose, and the owner or owners of such claim or claims shall be entitled to all the gold taken out of the cut.

Free Miners may use, but not obstruct Bed-rock Flumes.

13. Any free miner or miners lawfully holding and working any claims on any gulch, ravine, stream or water course where a Bed-rock Flume may be constructed under the provisions of this Act, shall be entitled to tail their sluices, hydraulics and ground sluices into such flume, but so nevertheless as not in the opinion of the Gold Commissioner, by rocks, stones, boulders, or otherwise unnecessarily to obstruct the free working of such flume.

Provided that such Bed-rock Flume company, shall be entitled to all the gold deposited in such flume.

Bed-rock Flume Companies may enter on "abandoned ground."

14. Any company authorized and organized as aforesaid, shall be, and are hereby empowered to enter upon any river, creek, gulch, ravine, or other water course which may have been worked by miners and abandoned, and locate the entire bed of such stream, gulch, ravine, or water course one hundred feet in width, and one half mile of the length of such stream, gulch, ravine, or water course,

for each one of the free miners constituting such company, and such company shall possess the exclusive right to work the ground so located.

The term "abandoned ground" shall be construed to include all new and unworked ground outside of claims, actually held and worked upon any stream, gulch, ravine, or water course, which may have been discovered and mined for two years or more.

"Abandoned ground" how construed.

15. Bed-rock Flume companies authorized and organized as aforesaid, and locating upon abandoned streams or ground, shall be governed by clause 12 of this Act in all cases where free miners or companies of free miners shall be legally holding and working claims on such stream or ground, prior to and at the time of the location of such Bed-rock Flume company's claim, if within the limits thereof.

Bed-rock Flume Companies working "abandoned ground" to be governed by Clause 12.

16. Any portion or part of any river, creek, gulch, ravine, or other water course having four or more free miners per mile legally holding and *bonâ fide* not colourably working claims, on such stream, gulch, ravine, or water course, shall not be deemed "abandoned" within the meaning of this Act, but in such case any Bed-rock Flume company desiring to run a flume through such portion or part of such stream, gulch, ravine, or water course, shall be governed by the following clauses of this Act.

Rivers, creeks, &c., when not deemed abandoned.

17. Any Bed-rock Flume company, as aforesaid, locating upon any portion of a stream, gulch, ravine, or water course referred to in clause 16 hereof shall have their location carefully surveyed, and a post with a square top driven securely into the ground, upon the lower line of each such claims, within such company's limits, and shall at the time of setting up such posts give notice to each of the holders of such claims, in writing, of the distance in feet and inches, at which such company's flume will strike any such miner's claim, or perpendicularly below the top of such post, and the number of inches grade which such flume has in each one hundred feet.

Boundaries of Bed-rock Flume Company's claim, how fixed.

18. At the expiration of one calendar month, or such further time as the Gold Commissioner may allow, after survey and service of notice last aforesaid, it shall be lawful for such Flume company to enter upon any claim or claims situated within such company's limits, and open a cut and lay a bed-rock flume through such claim or claims, in case the owner or owners thereof shall have failed in the meantime to open their respective claims, and lay bed-rock flumes therein.

After due notice, Bed-rock Flume Company can lay flume on any claim.

Provided that if such Bed-rock Fume company shall so enter upon and lay the said flume through any claim or claims, as last aforesaid, the respective holder or holders of such claim or claims shall be entitled to all gold taken from the cut and bed-rock, in opening the said cut and laying the flume therein.

Holder of such claim entitled to gold in flume.

19. Private claim holders putting in bed-rock flumes to connect with bed-rock flumes put in by Bed-rock Flume companies, shall maintain the like grade, and build their flumes as thoroughly and of as strong materials as are used by Bed-rock Flume companies.

What grades to be maintained by private claim holders.

20. Individual or company claim holders, after the bed-rock flume has been extended through their respective claims at their own expense, shall have the right at any time before the abandonment of their claim or claims to become members of the bed-rock flume company, by uniting their claim or claims with the ground of the company, and taking an interest proportionate to the area of the ground which they shall cede to the company, or work their ground on their own account, at their option.

Right of claim holders who have borne expense of Bed-rock Flume to become members of Bed-rock Flume Company.

21. Bed-rock Flume companies, authorized and organized as aforesaid, shall be entitled to the use and enjoyment of so much of the unoccupied and unappropriated water of the stream or streams on which they may be located, and of other adjacent streams as may be necessary for the use of their flumes, hydraulic power, and machinery to carry on their mining operations, and shall have the right of way for ditches and flumes, to convey the necessary water to their works, they being liable to other parties for any damage which may arise from running such ditch or flumes through or over their ground.

Right of Bed-rock Flume Company to water.

22. Bed-rock flumes, and any interest or interests therein, and all fixtures, are hereby declared to be personal property, and may be sold, mortgaged, transferred, or otherwise dealt with as such.

Bed-rock Flumes declared personal property.

Bed-rock Flume Company how registered, and fees payable.

23. Bed-rock Flume companies, authorized and organized as aforesaid, shall measure off their ground, set up their stakes, post their notices, and register their claims, in the same manner as individual free miners are required to do, and shall pay five pounds sterling per annum in addition to the registration fee for each half mile of claim and right of way legally held by such company.

Individual claim holders fluming, subject to same rules.

24. Individual or company claim holders, building bed-rock flumes through their own ground, to connect with similar flumes built by Bed-rock Flume companies shall be subject to the same rules and regulations, with regard to cleaning up the flume repairs and other matters, in which both parties are interested, and pertaining to the rights hereby authorized and confirmed, as may be adopted by such Bed-rock Flume company.

Private company may abandon claims, and appropriate gold in flume.

25. Provided that if any private or company claim holders shall desire to abandon their respective claims, they may give notice to such Bed-rock Flume company of such intention, and shall then have the right to proceed at once to clean up their portion of such flume, or wait until such company cleans up, and then take all the gold which may be found in their portion of such flume.

Such flume deemed abandoned, and to revert to Bed-rock Flume Company.

Provided also that when such individual or company claim holders shall have given the notice aforesaid, and cleaned up their section of the said flume, such claims shall be deemed to be abandoned with the flume therein, and such abandonment shall revert to the benefit of such Bed-rock Flume company.

Bed-rock Flume notice.

26. Any free miners or company of free miners applying for the privilege of constructing a bed-rock flume, shall comply with the requirements of clause twenty four (24) of the Gold Fields Rules and Regulations, issued on the 7th day of September, 1859, and also put up a notice of such application in some conspicuous part of the town place, or at the Court House nearest to the locality applied for, at least five clear days before making such application.

Deads and leavings not to obstruct stream.

27. The period at the end of clause two (2) of the Rules and Regulations issued on the 24th day of February, 1863, is hereby struck out and the following words added thereto, to wit: "or shaft, and in no case shall the said deads or leavings, forkings from sluices, waste dirt, large stones, or tailings be allowed to accumulate so as to obstruct the natural course of the stream.

Minors of 16 (when partners) to be deemed adult free miners.

28. The interests of minors over sixteen years of age, shall be subject to the same laws as apply to the interests of adult free miners, and they shall enjoy the same rights thereto as adults, but no person under the age of sixteen years shall be capable of holding any claim, or interest therein.

Mining Co-partnerships.

29. And whereas, it is necessary to provide facilities for the formation of mining co-partnerships, be it enacted

Minutes of Co-partnership when no deed of partnership exists.

That all mining companies shall be governed by the provisions hereof, unless they shall have other and written articles of co-partnership properly signed, attested, and recorded.

Duration of mining Co-partnership.

30. No mining co-partnership shall continue for a longer time than one year, unless otherwise specified in writing by the parties, but such co-partnership may be renewed at the expiration of each year.

Confined to mining.

31. The business of the co-partners herein referred to shall be mining, and such other matters as pertain solely thereto.

Powers of a majority.

32. A majority of the co-partners, or their legally authorized agents, may decide the manner of working the claims of the co-partners, the number of men to be employed, and extent and manner of levying assessments to defray the expense of working the claim or claims of the company and all other matters pertaining thereto. Provided that every such company's claim shall be represented according to law. Such majority may also choose a foreman or local manager, who shall represent the company, and have power to bind such company by his contracts, and sue and be sued in the name of the company for assessments and otherwise; and every such partnership must register its partnership or company name with the Gold Commissioner.

Assessments, when payable.

33. All assessments levied during the time of working, shall be payable within ten clear days after each such assessment.

Payment of assessment, in default how enforced.

34. Any party failing or refusing to pay any assessment or assessmentse leviable according to the provisions of this Act, after having received any notice thereof, specifying the amount due during the period the said party may be delinquent, shall be personally liable to his co-partners for the amount of such delinquency, and the amount of such delinquents indebtedness having been ascertained by a court of competent jurisdiction, his interest in said company's claim may be sold for the payment of the amount found due, with interest (if any) and costs as hereafter specified.

35. The notice of sale of such delinquent's interest, or such part thereof as shall suffice to pay the amount of indebtedness, with interest and costs as aforesaid, shall be published by advertisement in some newspaper published in the district, for ten days prior to the day of sale, and if there be no newspaper published in the district, then notices of such sale shall be posted for the same length of time, in the vicinity of the claim or interest to be sold, and at the Court house nearest thereto. Such sale shall be by public auction to the bidder offering to pay the amount due for the smallest portion of said claim or interest. The purchaser at such sale on payment of the purchase money, shall acquire all the right, title and interest of the delinquent, in and to the interest sold, and shall be entitled to the immediate possession thereof. Notice of Sale.

36. The following part of clause (7) seven of the Gold Fields' Act, 1859, shall be deemed to have been never repealed, that is to say, No one recognized except a free miner in a claim.

No person shall be recognized as having any right or interest in or to any claim or ditch, or any of the gold therein, unless he shall be, or in case of disputed ownership, unless he shall have been at the time of the dispute arising, a free miner.

37. Clause 3 of the Proclamation of 25th day of March, 1863, is hereby repealed, and the following provisions be substituted in lieu thereof: Miners record covers only unappropriated water.

In addition to the above rights, every registered free miner shall be entitled to the use of so much of the water naturally flowing through or past his claim, and not already lawfully appropriated, as shall in the opinion of the Gold Commissioner be necessary for the due working thereof.

38. It shall be lawful for the Gold Commissioner previous to recording a claim or interest therein or other matter, to demand from the applicant the production of his free miner's certificate, and upon his refusal or neglect to produce the same, to refuse to record such claim, interest, or other matter. Production of free miner's certificate before record.

39. For every record which the Gold Commissioner shall be called upon to make whether of leave of absence granted or any matter or thing whatever, relating to mining, and for which a special fee shall not have been provided by any law, rate or regulation in that behalf in force for the time being, the Gold Commissioner shall charge a registration fee of ten shillings and sixpence, but for every search of a record only four shillings and two pence. General fee on recording mining matter.

40. No distinguishing number shall hereafter be required, or be deemed to have been ever required, for or in respect to any claim, any existing law or rule to the contrary notwithstanding. Distinguishing number of claims abolished.

41. All gold found in any gold mine in the Colony, shall be deemed and taken to be ore of gold, within the meaning of the statute. Gold in claim to be ore of gold.

42. No claim located and recorded in any district within 14 days after the claims therein shall have been laid over by the Gold Commissioner till the ensuing season or other specific date, shall be allowed or deemed to be so laid over, unless so much work shall have been *bonâ fide* expended thereon by the holders thereof, as shall in the opinion of the Gold Commissioner fairly entitle him to have such claim laid over. Claims recorded in the close season when laid over.

43. Every free miner shall be allowed three days in which to record his claim by pre-emption after the same shall have been located, if such claim shall be within 10 miles of the Gold Commissioner's office, if more than ten miles from it then one additional day shall be allowed for every additional ten miles or fraction of ten miles, as the case may be. Three days' grace for every 10 miles before record.

44. Every adult free miner shall be allowed to hold two claims by pre-emption, viz: one quartz claim and one other claim and no more at the same time, but by purchase may hold any number or amount of claims or interests therein, which have been once duly located and registered, subject to the laws for the time being regulating the same. And every adult free miner may lawfully sell, mortgage, transmit, or dispose of any number of claims or interests therein, lawfully held or acquired by him, whether by pre-emption or purchase. Limits claims by pre-emption to two claims.

45. The amount of interest which a free miner has in his claim shall, save as against Her Majesty, Her Heirs, and Successors, be deemed and taken to be a chattel interest equivalent to a lease for a year, renewable at the end of the first and every subsequent year, subject to the conditions as to forfeiture, working, representation, registration, and otherwise, for the time being in force with respect to such claim or interest under any Law or Rule regulating the same. What is a miner's interest in a claim.

Provided that every forfeiture of a claim under any such Law or Rule shall be absolute, any Rule or Law or equity to the contrary notwithstanding. Forfeiture absolute.

Deceased free miner's claims not forfeitable.

46. In case of the death of any free miner, while registered as the holder of any claim or ditch, his claim or interest shall not be open to the occupation of any other person for non-working or non-representation, either after his decease or during the illness which shall have terminated in his decease.

Gold Commissioner may keep afoot or sell deceased miner's claim.

47. And in all cases where the Gold Commissioner shall find that such free miner shall be possessed of a claim or ditch, or interest therein, he may cause the same to be duly represented until sale on such terms as he shall think just, or dispense with the same at his option, or may sell such claim, ditch, or interest by Auction, after ten days' public notice thereof, for such price as in his judgment he shall deem just and fair, and for the purpose aforesaid, the Gold Commissioner may employ and pay out of any assets of the deceased, which may come to his hands, such valuers or persons as may be necessary.

Gold Commissioner's conveyance a good title.

48. Every assignment of any such interest by the Gold Commissioner shall convey to the assignee all the right and interest of the deceased miner, thereby purported to be conveyed, and shall be subject to the same registration and fees as if such assignment had been made by such miner before his decease.

Notice of official administration.

49. The Gold Commissioner shall in all cases of death of every registered free miner, give notice thereof as soon as conveniently may be, and also of any acts and interferences of such Gold Commissioner, to the official administrator, who shall in all cases which may seem fitting, take out probate or letters of administration as the case may require, and collect and get in the estate and effects of the deceased in the usual and proper way; no such dealing or interference, as aforesaid, by the Gold Commissioner shall make him in any way liable as an executor *de son tort*, or in any way liable for unintentional losses or in any other responsibility, than to account to the personal representative of the deceased, when duly constituted, for all monies actually received and expended by him in the matter of the estate and effects of the deceased.

Allowance to Gold Commissioner.

50. Every Gold Commissioner who shall so act in the collection and custody of the estate and effects as aforesaid, shall be entitled to his own use, to an allowance thereout not exceeding in any case five per cent on the whole amount collected.

Fees on registration as in Schedule.

51. On the registration of any of the matters, acts, deeds, documents, or things mentioned on the Schedule hereto, there shall be payable in respect thereof by the party seeking such registration, the several duties and sums of money set opposite such matters, acts, deeds, documents, and things respectively in the Schedule hereto, such payments to be taken by the Gold Commissioner or other officer effecting the registration at the time of each registration, and for the use of Her Majesty, Her Heirs and Successors.

52. Every sale, mortgage, alienation or other disposition of any claim, ditch or other mining property, or of any interest therein respectively, shall be made by an Instrument in writing which shall be registered with the Gold Commissioner, or other officer duly authorized in that behalf in the district in which such property is situated, in separate books to be kept by him for the purpose, and every such conveyance, mortgage, or other document shall set forth truly expressed in words at length, the full *bonâ fide* price, consideration, or value that has been or has to be paid directly or indirectly in each transaction, or in default thereof shall be void.

53. In case of any dispute, the titles to claims, leases of auriferous earth or rock, ditches or water privileges will be recognized according to the priority of registration, subject only to any question which may be raised as to the validity of any particular act of Registration.

Certified copy of record evidence.

54. Every copy or extract from any record or register, under or by virtue of this act, or the Gold Field's Act of 1859, the Proclamation of 25th day of March, 1863, or any Gold Rules and Regulations required to be kept by any Gold Commissioner, and certified to be a true copy or extract under the hand of the Gold Commissioner, or other person authorized to take and keep such record or register, shall in the absence of the original register, be receivable in any judicial proceedings as evidence of all matters and things therein appearing.

Saving of Crown Rights.

55. Nothing herein shall be construed to limit, or abridge the prerogative rights of Her Majesty, Her Heirs and Successors, in or to the Gold Fields of British Columbia.

56. This Act shall be construed as far as possible with the Gold Fields' Act, 1859, and Proclamation of the 25th day of March, 1863, and the Rules and Regulations made in pursuance thereof respectively. To be construed as one with the Gold Fields' Act 1859.

57. The Schedule hereto shall be part of this Act. Schedule part of Act.

58. This Ordinance may be cited for all purposes as the "Gold Field's Act, 1864." Short Title.

Passed the Legislative Council the 24th February, A.D. 1864,

CHARLES GOOD,
Clerk.

Received my assent this twenty-sixth day of February, A.D. 1864,

JAMES DOUGLAS,
Governor.

THE SCHEDULE TO WHICH THIS ACT REFERS.

There shall be paid to the Gold Commissioner, for the use of Her Majesty, Her Heirs and Successors,

On every registration under this Act, of any sale, mortgage, transfer or other deposition of any claim, ditch, flume, water privilege, or any separate interest therein respectively, when the price or consideration or value of the property disposed of is one hundred pounds (£100) or under, the sum of one pound and sixpence, and for every fifty pounds (£50), or fraction of fifty pounds (£50) over one hundred pounds (£100), the additional fee of ten shillings and three penec. £1 0 6. £0 10 3.