



SECOND SUPPLEMENT  
TO THE  
VICTORIA  
GOVERNMENT GAZETTE  
OF FRIDAY, APRIL 15, 1859.

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SATURDAY, APRIL 16.

[1859.

ORDER IN COUNCIL.

(Made under 21 Victoria No. 32, sec. xii.)  
PRESCRIBING THE FORM OF LEASES OF AURIFEROUS CROWN  
LANDS.

At the Government House, Melbourne, the fourteenth day of April,  
1859.

PRESENT:

His Excellency the Governor,

Dr. Evans, LL.D., Mr. Ireland.

WHEREAS by an Act of the Parliament of Victoria, passed in the twenty-first year of the reign of Her present Majesty, intituled, *An Act for amending the Laws relative to the Gold Fields*, it was made lawful for the Governor in Council to make such regulations, not being contrary to the provisions of the said Act, as should appear to be necessary for prescribing the form of documents and leases to be issued under the said Act, the modes, times, dates, and places of the issue thereof, and the conditions upon which such leases should be issued: And whereas it is necessary to prescribe the form of leases to be issued under the said Act: Now, therefore, His Excellency the Governor, by and with the advice of the Executive Council, doth hereby order that all leases granted under the said Act shall be in the form contained in the schedule hereunto annexed.

And the Honorable Richard Davies Ireland, Her Majesty's Solicitor General for Victoria, shall give the necessary directions herein accordingly.

J. MOORE,

Acting Clerk of the Executive Council.

THIS INDENTURE, made the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 18\_\_\_\_, between Her Most Gracious Majesty Queen Victoria of the one part, and \_\_\_\_\_ of \_\_\_\_\_ (hereinafter called the lessees) of the other part. Whereas by an Act of the Parliament of Victoria, passed in the 21st year of Her Majesty Queen Victoria, number thirty-two, it was made lawful for the Governor to grant certain leases for any term not exceeding ten years, for mining purposes, of any auriferous Crown land: And by the same Act it was also made lawful for the Governor in Council, from time to time, to make such regulations, not being contrary to the said Act, as should appear to be necessary for prescribing the form of documents and leases to be issued under the same Act, the modes, times, dates, and places of the issue thereof, and the conditions on which such leases should be issued: And whereas the said lessees have duly applied for a lease of the land and premises hereinafter described, in compliance with the regulations which have been made in pursuance of the said Act in that behalf: It is witnessed that in consideration of the rents, reservations, covenants, provisoes, and agreements hereinafter contained on the part of the said lessees, their executors, administrators, and assigns, to be paid, observed, and performed, Her Majesty the Queen (so far as the grant hereinafter contained is not included in or does not interfere with any former and similar grants), doth by these presents grant and demise unto the said lessees, their executors, administrators, and assigns, all that piece or parcel of land particularly described in the first schedule hereto, and as the same is set forth and delineated in the map or plan hereon endorsed, and therein

colored yellow: Together with all and singular houses, buildings, shafts, pumps, levels, drifts, works, ways, waters, watercourses, privileges, and appurtenances to the same now or which may during the term hereby granted be belonging or therewith occupied and enjoyed: And also with full and free liberty for the said lessees, their executors, administrators, and assigns, to search for, dig, sink, drive, make, and use all such pits, shafts, pumps, levels, watercourses, and other works, which may be necessary for winning, working and obtaining the gold, and other minerals therein contained, and for the purposes aforesaid to erect, make, and employ all such fire, steam, water, and other engines, buildings, workmen's houses, puddling and crushing machines, shops, sheds or huts, machinery, and works which may be proper and reasonable: Except and always reserved unto Her Majesty, her heirs, successors, and assigns, full and free liberty at all proper and seasonable times during the continuance of this demise, to enter into and upon the land, mines, works, and premises hereby demised, in order to view and examine the condition thereof, and for that purpose to make use of any of the roads, ways, machinery, and works now or which may be belonging to the said land, mines, and premises: And also to use or make and use any drifts, levels, shafts, watercourses, adits, or passages now being or hereafter to be in or upon any part of the premises hereby demised, or the surface thereof, for the purpose of freeing any other land or mines whatsoever from water, or for conducting water, for the use of any such last-mentioned land or mines, or the machinery or works connected therewith, or for supplying the same with good fresh air: And also full and free liberty at all times during the continuance of the demise to make any level, drift, shaft, adit, watercourses, railroads, and other roads or ways, in, through, or upon any parts of the premises hereby demised, or the surface thereof, for effectually winning or working any other adjoining or neighboring mines, or for any public purpose whatsoever, causing thereby nevertheless as little as possible obstruction or injury to any of the levels, drifts, shafts, adits, watercourses, roads or ways, and works belonging to the said land, mines, and premises hereby demised and in actual use: And except and always further reserved unto Her said Majesty, her heirs, successors, and assigns, all such parts and so much of the said land hereby demised as may be required for making public ways, canals, or railroads, in, over, and through the same, to be set out by the Governor for the time being of the colony of Victoria, or some person by him authorised in that respect: And also all sand, clay, stone, gravel, and indigenous timber, and all other materials, the natural produce of the said land, which may be required at any time or times hereafter, for the construction or repair of any public ways, bridges, canals, and railroads, or any fences, embankments, dams, sewers, or drains necessary for the same, together with the right of taking and removing all such materials, together with the right of full and free ingress, egress, and regress into, out of, and upon the said land for the several purposes aforesaid: To have and to hold the said land, mines, gold, and other minerals, and all and singular other the premises hereinbefore mentioned or referred to and hereby demised or expressed and intended to be with their and every of their appurtenances (except as aforesaid) unto the said lessees, their executors, administrators, and

assigns, from the \_\_\_\_\_ day of \_\_\_\_\_ last for and during the full term of \_\_\_\_\_ years from thence next ensuing, and fully to be complete and ended to the intent that the same shall be used for gold mining operations: Yielding and paying therefor yearly and every year during the term hereby demised the yearly rental of \_\_\_\_\_ pounds by equal quarterly payments of \_\_\_\_\_ pounds each, to be made in advance, the first payment to be made on the day of the date hereof, and all such payments to be free and clear of and from all rates, taxes, and assessments now or which may hereafter be imposed upon and in respect of the land and premises hereby demised, and from all other charges and deductions whatsoever, subject nevertheless to the restrictions, conditions, covenants, and provisos herein and hereby made, expressed and referred to: And the said lessees for themselves, their heirs, executors, administrators, and assigns, do, and each of them doth, by these presents jointly and severally covenant with and to Her Majesty, her heirs, successors, and assigns, in manner following, that is to say, That the said lessees, their executors, administrators, or assigns, shall and will pay the rent hereby reserved upon the days and times hereinbefore appointed for the payment thereof free and clear as aforesaid according to the true intent and meaning of these presents; and shall and will within \_\_\_\_\_ months from and after the date hereof expend a sum of not less than \_\_\_\_\_ pounds and within \_\_\_\_\_ months thereafter a further sum of not less than \_\_\_\_\_ pounds in and towards the carrying out of the operations hereby contemplated, and likewise erect or cause to be erected on the said land good and efficient machinery for the like purpose of the value of not less than \_\_\_\_\_ pounds: And also shall and will at all times during the continuance of this demise prepare and keep correct and proper plans or sections of all the workings and of the actual condition of the mines and premises hereby demised, such plans to be upon such scale and in accordance with such directions as the district surveyor or other officer authorised or appointed in that behalf shall from time to time direct, and shall deliver quarterly during the said term a true copy of such plans or sections to such district surveyor or other officer for the use of the Government of Victoria: And also shall and will supply quarterly, during the said term, to the warden or other proper officer who may be authorised or appointed in that behalf, such returns, particulars, and statistics of the operations to be carried on upon the said land and the results thereof as he may from time to time in that behalf require, accompanied with a statutory declaration of the truth and correctness thereof: And also that they the said lessees, their executors, administrators, and assigns, agents, workmen, and servants, shall and will during the continuance of this demise work and carry on mining operations on the said land, mines, and premises, in a fair, orderly, skilful, and workmanlike manner: And also shall and will, for at least \_\_\_\_\_ calendar months in the whole in every year during the continuance of this demise, constantly employ during all the usual times and hours of working mines, in working and carrying on the said mining operations, at least \_\_\_\_\_ good, able, and sufficient miners or workmen, unless prevented by some inevitable accident or occasion: And also that it shall be lawful for Her Majesty, her heirs, successors, and assigns, or her or their agents, at all proper and reasonable times during the continuance of this demise, and whether the said mining operations shall be in progress or not, without any interruption or disturbance from the said lessees, their executors, administrators, or assigns, agents, workmen, or servants, to enter into and upon the said mines, works, and premises hereby demised, or any part thereof, to view and examine the state and condition thereof, and whether the said mines be worked in a proper, skilful, and workmanlike manner, and for such purposes to make use of the roads, ways, machinery, or works belonging to the said mines and premises: And also that the said lessees, their executors, administrators, and assigns, or their miners workmen, or servants, shall not nor will carry on mining operations on the said land, mines, and premises hereby demised out of or beyond the limits and boundaries mentioned in the first schedule hereto: And also shall and will at all times during the continuance of this demise make proper and reasonable compensation to the occupiers or lessees from the Crown for the time being of any adjoining land, in respect of any damages which may be sustained by them by the working of the said mines and the carrying on the said works, or by any other means connected therewith: And shall and will pump out the water from their mines on the said land at all reasonable times, or contribute or pay rateably with adjoining occupiers or lessees from the Crown for the time being a fair proportion of water charges for keeping their works free from water, or shall and will pay to meet the loss or expense incurred by the Government, or by such lessees from the Crown as aforesaid, or the adjacent or neighboring miners (if any), such proportionate rate to be determined or assessed by the warden of the district or other authorised officer on his own view, or upon such evidence as may appear to him sufficient, and to be recoverable by distress of the goods, chattels, gold, and ore of the lessees, their executors, administrators, or assigns, being upon the said land, to be levied upon warrant under the hand of the warden or other authorised officer: And also shall and will make adequate provision for the deposit of the refuse or rubbish from the mining operations, so as not to injure any watercourses, nor to obstruct roads or thoroughfares used or which may be used by the public or by adjoining or adjacent miners, nor to occasion public inconvenience thereby: And also shall and will

make such arrangements for the prevention of nuisance and for the observance of decency, and adopt such sanitary measures generally as the Governor in Council may from time to time approve of or require; and shall and will erect and keep erected posts not less than three feet in height above the ground at the north and south midway points and the angles of the land hereby demised: And also shall and will build and keep in good repair a sufficient and substantial wall or fence around all the shafts which may at any time during the said term be open in any part of the said demised premises, or elsewhere, for the purposes of this demise, so as to lessen the liability to accident, and, further, effectually to prevent all access thereto by all kinds of cattle; and where and so often as any such shaft shall be considered by the warden or other officer authorised in that behalf, and also by the lessees, their executors, administrators, and assigns, or their agents, to have become entirely unnecessary, shall and will fill up the same with earth or waste heaps, or effectually and substantially shut up and enclose the same: And also shall and will at all times during the continuance of the said demise, keep and preserve the said mines and premises from all unnecessary injury and damage, and also the levels, drifts, shafts, pumps, watercourses, houses, erections, sheds, and other conveniences, roads, and ways, in good order, repair, and condition, except such of the said works as shall from time to time be considered by the warden or other proper officer to be unnecessary for the further working of the said mine, or for any purposes connected with the working of any other mines, and in such state and condition shall and will, at the end or other sooner determination of the said term, deliver peaceable possession thereof, and of all and singular the premises hereby demised, to Her Majesty, her heirs, successors, or assigns, or to the warden or other officer authorised to receive possession thereof: [And, further, shall and will likewise observe, perform, fulfil, and keep the further conditions, covenants, and provisos set forth and contained in the second schedule hereto:] And also shall not nor will cut or use any timber growing upon the said land, except for the purposes of the mining operations hereby contemplated, or for the domestic purposes of those engaged or employed thereon, and shall not nor will use the land hereby demised for any other than the said mining purposes, or the depasturage of cattle used in connection therewith, or the formation and cultivation of gardens and garden produce for the use of those so engaged or employed as aforesaid, but not for the purposes of sale or barter: Provided also, and it is hereby expressly declared and agreed, that if the said lessees, their executors, administrators, or assigns, shall at any time during the continuance of this demise, refuse or neglect to observe or perform all or any of the conditions, covenants, and provisos hereinbefore on their parts contained or referred to, then and in such case the said term hereby granted shall cease, determine, and be void, anything herein contained to the contrary thereof in anywise notwithstanding: And it shall be lawful for Her Majesty, her heirs, successors, or assigns, or her or their agents or officers, to enter forthwith into and upon the said demised premises, and the same to repossess and enjoy as fully and effectually as if these presents had not been made and executed. And it is hereby agreed and declared in any such case it shall be lawful for Her Majesty, her heirs, successors, or assigns, and her or their agents or officers appointed in that behalf, without any demand whatsoever, to enter upon the said demised premises, and the said lessees and all persons claiming under them or any of them for ever to expel and remove therefrom without any legal process whatsoever, and as effectually as any sheriff might do, in case Her Majesty, her heirs, successors, or assigns, had obtained judgment in ejectment for recovery of possession thereof, and a writ of *habere facias possessionem* or other process had issued on such judgment, directed to such sheriff in due form of law; and that in case of such entry and any action being brought or other proceedings taken for the same by any person whomsoever, the defendants to such action may plead leave and license in bar thereof, and these presents shall be conclusive evidence of the leave and license of the said lessees and all persons claiming under them or any of them to Her Majesty, her heirs, successors, and assigns, and all persons acting therein by her or their or any of their order, for the entry or trespasses or other matters to be complained of in such action or other proceeding.

Witness Our trusty and well-beloved Sir Henry Barkly, Knight Commander of the Most Honorable Order of the Bath, Captain-General and Governor-in-Chief of Our said Colony, and Vice-Admiral of the same, at Melbourne, this \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of Our Reign, and in the year of Our Lord One thousand eight hundred and \_\_\_\_\_

FIRST SCHEDULE ABOVE REFERRED TO.

SECOND SCHEDULE ABOVE REFERRED TO.

(Here introduce any special provisions.)

Endorsement.—Dated \_\_\_\_\_ 185 \_\_\_\_—Her Majesty the Queen, to \_\_\_\_\_ Mining Lease.