CHAP. 85.

An Act to make further provision respecting the opening and working of Mines and Quarries in Her Majesty's Forest of Dean, and in the hundred of Saint Briavels, in the county of Gloucester; and for other purposes connected therewith. A.D. 1871.

[16th August 1871.]

WHEREAS the Commissioners appointed by an Act passed in the session of Parliament held in the first and second years of Her present Majesty, intituled "An Act for regulating the "opening and working of Mines and Quarries in the Forest of Dean "and Hundred of Saint Briavels, in the county of Gloucester," (in this Act referred to as the Act of 1838,) duly made and published in pursuance of the provisions in the said Act contained three several awards relating respectively to coal mines, iron mines, and quarries, and dated respectively the eighth day of March, the twentieth day of July, and the twenty-fourth day of July, in the year one thousand eight hundred and forty-one, the schedules to which awards annexed contained certain rules and regulations: 1 & 2 Vict. c. 43.

And whereas the said Commissioners did by two rules respectively distinguished by the number 4 in the second schedules to the said award of coal mines, and to the said award of iron mines respectively annexed (in this Act referred to as "Rule 4"), prescribe the times within which persons then or thereafter holding unopened gales of coal and iron should bonâ fide commence opening the same:

And whereas the said Commissioners did by two other rules respectively distinguished by the number 14 in the said second schedules to the said last-mentioned awards respectively annexed (in this Act referred to as "Rule 14") prescribe how and in what manner every galee or other person holding through or under him might make up the short workings of any year or years:

And whereas by another Act passed in the session of Parliament held in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, intituled "An Act to make further provision 24 & 25 Vict. c. 40.

A.D. 1871.

" for the management of Her Majesty's Forest of Dean and of the " mines and quarries therein, and in the Hundred of Saint " Briavels, in the county of Gloucester," certain parts of the Act of 1838, and certain of the Rules (other than Rule 4 and Rule 14 herein-before referred to) made under the authority and in pursuance of the said last-mentioned Act, were altered and amended, and certain other provisions with reference to the mines and quarries within the said Forest and Hundred were made:

And whereas doubts as to the meaning of Rule 4 and Rule 14 have arisen, and with a view to the quieting of such doubts, and to ascertaining and settling the meaning and application of the said rules, it is expedient that such provisions be made as are in this Act expressed:

And whereas it is also expedient to alter and amend certain parts of the said recited Acts, and of the said rules and regulations, and to make certain other provisions with reference to mines and quarries within the said Forest and Hundred:

May it therefore please Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PRELIMINARY.

Short title.

1. This Act may be cited for all purposes as " The Dean Forest (Mines) Act, 1871."

Interpretation.

2. In this Act—

The term " the Commissioners of Woods " shall mean the Commissioner or Commissioners for the time being of Her Majesty's Woods, Forests, and Land Revenues having the management and direction of Her Majesty's Forest of Dean:

The term "galee" or "galees" shall respectively include all persons holding or having any interest in or under any gale or gales:

The terms " award of coal mines," " award of iron mines," shall mean respectively the award of coal mines and the award of iron mines made by the Commissioners in pursuance of the Act of 1838:

The term " principal Acts " shall mean the Act of 1838 and the Act 24 & 25 Vict. c. 40.:

The term " prescribed " shall mean prescribed by any rules made in pursuance and under the authority of this Act.

Limits of Act.

3. This Act shall apply to and be in force within the limits of the principal Acts, that is to say, within the whole of Her Majesty's

Forest of Dean, and of the Hundred of Saint Briavels, excepting only such lands being part of the same and belonging to Her Majesty or to any of Her Majesty's subjects to which the provisions of the principal Acts do not extend, in consequence of notices on behalf of Her Majesty, or other the owner or owners of the said lands, having been given with respect to the same, under the provisions of the sixty-eighth section of the Act of 1838.

Construction of Act.

4. The principal Acts, so far as not inconsistent with this Act, and this Act shall be construed together and read as one Act.

PART I.

THE MINING COMMISSIONERS OF 1871.

Mining Commissioners constituted.

5. There shall be three Commissioners for carrying the purposes of this part of this Act into execution, who shall be styled the Forest of Dean Mining Commissioners of 1871 (and to whom the term "the Commissioners" when used in this part of this Act refers).

Appointment of Commissioners.

6. One of the Commissioners, being a person engaged in or conversant with mercantile affairs, shall be appointed by the Board of Trade, one, being a mining engineer, shall be appointed by the Lord Chancellor, and one, being a barrister-at-law, shall be appointed by the Lord Chief Justice of the Court of Queen's Bench. Any appointment of a Commissioner by the Board of Trade, either originally or for the purpose of filling up a vacancy, may be made by any writing under the hand of the secretary of such Board for the time being.

Vacancies among Commissioners.

7. Any vacancy happening by death, resignation, refusal to act, or otherwise in the office of any of the Commissioners (appointed either originally or on a vacancy) shall be filled up by the appointment of another person, having the same qualifications as the vacating Commissioner, to be one of the Commissioners by the authority by whom the vacating Commissioner was appointed.

Commissioners neglecting to attend meetings to be considered as a refusal to act.

8. If any Commissioner (appointed either originally or on a vacancy) at any time wilfully absents himself from any three successive meetings appointed to be holden by virtue of this Act, such Commissioner not having been prevented by sickness or other inevitable cause, to be allowed by the Board of Trade, by some writing under the hand of the secretary to such board for the time being, from attending or continuing at such meetings, then such non-attendance shall be deemed and taken to be a refusal to act within the meaning of this part of this Act.

A.D. 1871.

Power of two Commissioners.

9. The three Commissioners shall, unless prevented by sickness or other inevitable cause, sit together for the purposes of this part of this Act, but the acts and decisions of two of the Commissioners shall be deemed to be acts and decisions of the Commissioners.

Clerk to Commissioners.

10. The Commissioners shall from time to time appoint by writing a clerk, who shall hold his office during their pleasure.

Commissioners and clerk, remuneration, &c. of.

11. Each of the Commissioners and their clerk shall receive, as remuneration for his services, such sum (not exceeding as to a Commissioner two hundred pounds) as the Commissioners of Woods think reasonable and the Commissioners of Her Majesty's Treasury shall approve, and they shall be allowed all expenses properly incurred by them in executing this part of this Act.

Power to employ surveyors, &c.

12. The Commissioners may from time to time employ land surveyors, mining engineers, and valuers in such manner as they think fit.

Expenses of Commissioners.

13. The remuneration of the Commissioners and of their clerk, and all expenses allowed to them, and the expenses of the employment of land surveyors, mining engineers, and valuers, shall be paid and defrayed by the Commissioners of Woods under the direction of the Commissioners of Her Majesty's Treasury.

Mode of publication of notices by Commissioners.

14. Notices by this part of this Act required to be published by the Commissioners shall be published by insertion in the London Gazette, and in three newspapers printed or usually circulating in the county of Gloucester, and by bills posted on or in the Speech House in the Forest of Dean.

Signature of notice, &c.

15. Notices, summonses, and other instruments issued by the Commissioners for service or delivery shall be under the hand of their clerk.

Protection of Commissioners.

16. The Commissioners shall have the like protection and privileges in respect of any act done or omitted to be done in execution or intended execution of their duties under this part of this Act as justices of the peace acting in execution of their office have by law.

Penalty for disturbing Commissioners.

17. If any person wilfully disturbs or obstructs the Commissioners in the execution of their duties, he shall for every such offence be liable, on summary conviction, to a penalty not exceeding five pounds.

Constables, &c. to aid.

18. All constables, bailiffs, and other officers shall give their aid to the Commissioners in the execution of their duties.

Duties of Commissioners.

Subjects for decision of Commissioners.

19. The Commissioners may after due inquiry ascertain and declare—

(a.) What is the true meaning, construction, effect, and operation of Rule 4 and Rule 14 according to law, or (if it shall seem more for the substantial benefit of all parties concerned),

(b.) What, having regard to all the circumstances of the case, shall be deemed to be the meaning, construction, effect, and operation of Rule 4 and Rule 14.

And after ascertaining and declaring the matters aforesaid, or any of them, the Commissioners may, if they think fit, make new rules in place of and in substitution for Rule 4 and Rule 14, or either of them; and such new rules when made shall, from and after the publication of the award of the Commissioners in manner by this Act directed, be substituted for Rule 4 and Rule 14, or either of them, as the case may be; provided always, that in making any such new rules the Commissioners shall have regard to the provisions of the principal Acts.

And the Commissioners may settle and determine all matters which may come before them under the provision of this part of this Act, not only in accordance with the legal and equitable rights of the parties as recognised in the courts of law and equity, but upon such terms and in such manner in all respects as they in their absolute and unfettered discretion may think most fit, equitable, and expedient, and as fully and effectually as could be done by Act of Parliament.

Commissioners to publish notices.

20. The Commissioners shall within one month after their appointment publish notices appointing a place at which documents may be delivered to their clerk, and at which copies of the rules made by them for regulating their proceedings may be obtained, such place being some convenient place to be appointed for such purpose by the Commissioners.

They shall within two months after their appointment publish notices appointing the times and places at which they intend to hold meetings for the purpose of carrying into effect the purposes of this part of this Act.

Hearing.

21. As soon as conveniently may be after the publication of the said notices, appointing the times and places of meetings, but not sooner than one month thereafter, the Commissioners shall consider the matters in question, and shall hear any free miners or galees desiring to be heard, and the Commissioners of Woods appearing in either case by themselves, their counsel, attorneys, or

A.D. 1871.

agents, and take evidence, if the Commissioners think proper, subject nevertheless to such rules for regulating the proceedings before the Commissioners as they may make.

Power to send for persons and papers.

22. The Commissioners, on the application of any person admitted to be heard, shall by summons require the attendance before them of any person to be examined as a witness before them, and shall, on the like application, by summons require any person to bring before them all books, papers, and writings in the possession, custody, or control of such person relating to any matter to be inquired into by the Commissioners.

Person summoned bound to attend.

23. Every person so summoned shall attend as directed by the summons, and answer all questions touching the matter to be inquired into, and bring and produce all papers, books, and writings required, according to the tenor of the summons; provided that any person so summoned shall not be bound to obey the summons unless a reasonable sum is first paid or tendered to him for his expenses.

Penalty for non-attendance or refusing to give evidence.

24. If any person on whom any summons under the authority of this part of this Act is served, either personally or by delivery at his last known or usual place of abode or business, fails to appear at the time and place therein specified without reasonable excuse, or if any person appearing in accordance with any such summons refuses to be sworn or make affirmation (as the case may be), or to make answer to any question put to him touching any matter being then inquired into by the Commissioners, or if any person fails to produce and show to the Commissioners any book, paper, or writing in his possession, custody, or control which they may require to be produced, every such person shall for every such offence be liable, on summary conviction, to a penalty not exceeding twenty pounds, without prejudice to any other remedy against him.

Power for Commissioners to examine on oath, &c.

25. The Commissioners, or any one of them, may administer an oath or an affirmation (where an affirmation in lieu of an oath would be admitted in a court of justice) to any person examined before them, and may take the affidavit or declaration of any person.

Penalty for false evidence.

26. If any person on examination on oath or affirmation before the Commissioners, or in any affidavit or declaration used before the Commissioners, wilfully gives false evidence, he shall be deemed guilty of perjury.

27. The Commissioners may from time to time, if they think fit, make and publish such rules as seem proper (not being inconsistent with the provisions of this part of this Act) with respect to the following matters: Rules for carrying this part of this Act into effect.

1. The proceedings to be had before the Commissioners under this part of this Act.
2. The mode in which this part of this Act is to be carried into execution.
3. As to any other matter or thing in respect of which it may be expedient to make rules for the purpose of carrying this part of this Act into execution.

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this part of this Act, and shall be of the same force as if enacted in this part of this Act.

Award.

28. The Commissioners shall make their award (hereafter in this Act referred to as the award) not later than the thirty-first day of July one thousand eight hundred and seventy-two. Time for award.

29. The award shall set forth— Contents of award.

(1.) The decision of the Commissioners as to the meaning, construction, effect, and operation of Rule 4 and Rule 14.

(2.) The rules (if any) in substitution for Rule 4 and Rule 14, or either of them.

(3.) Any other matters in relation to which the Commissioners have taken proceedings under the authority of this Act, and which should in their opinion form part of their award.

30. The award hereby directed to be made shall be signed in triplicate by the Commissioners, and within one calendar month from the date thereof one part thereof shall be lodged in the office of land revenue records and enrolments, another part with the clerk of the peace for the county of Gloucester, and a third part with the gaveller or deputy gaveller of the said forest at his office for the time being in the said county of Gloucester; and the keeper of land revenue records and enrolments and clerk of the peace and deputy gaveller shall furnish copies or extracts thereof at the rate of sixpence per folio of seventy-two words, and shall, for a fee of two shillings and sixpence, permit the same to be examined and compared with the originals at all reasonable times by any person interested; and the said clerk of the peace, gaveller, or deputy gaveller shall also at all reasonable times permit any The awards, &c. to be signed by the Commissioners in triplicate.

A.D. 1871.

person interested to inspect the said award, when so deposited with him as aforesaid, upon payment of a fee of two shillings and sixpence for each such inspection.

Publication of award by Commissioners.

31. A copy of the said award shall be published by the Commissioners once in the London Gazette, and in three newspapers printed or usually circulating in the county of Gloucester once in each of three successive weeks, and shall be posted on or in the Speech House in the Forest of Dean.

The said award shall from and after the publication of a copy of the same in the London Gazette be effectual to all intents and purposes and binding upon all persons whomsoever, and shall have the like effect as if the same had been enacted by Parliament; and a production of a copy of such gazette purporting to be published by authority shall be admitted as evidence of such award, and of the several matters set forth in the same, and that all the provisions of this Act in relation to such award have been duly complied with, by all courts, judges, justices, and others, without any proof being given that such copies were so printed.

Cesser of duties of Commissioners.

32. From and after the publication in the London Gazette of a copy of the said award the duties and powers of the Commissioners shall cease and determine.

PART II.

MISCELLANEOUS.

Power to gaveller to accept surrender of part of a gale.

33. The gaveller may, for and on behalf of Her Majesty, her heirs and successors, accept from the owner or owners of any gale the surrender of any part of such gale on such terms and subject to such conditions as to rent, royalty, and other liabilities in respect of the same as he shall think expedient and proper, in like manner and subject to the like conditions as he is now under the provisions of the principal Acts empowered to accept the surrender of a whole gale.

Power to grant renewals of leases to assignees of free miners.

34. Where the interest of any free miner under the lease of any quarry within the said forest has been assigned to any person or persons not being a free miner or free miners, the Commissioners of Woods may, on the surrender or on the determination of the term of such lease, and of the term of any lease made under the authority of this section, grant to the person or persons in possession under and by virtue of such assignment or lease a new lease of such

quarry for any term not exceeding twenty-one years, subject to such rent and under such conditions as may be agreed upon, in like manner as if such person or persons so in possession were a free miner or free miners. A.D. 1871.

Minimum or dead rent to be made up to 31st December.

35. From and after the passing of this Act all sums of money payable to Her Majesty, her heirs and successors, by way of galeage or dead or certain rent, in respect of all gales, shall be made up to and paid to Her Majesty, her heirs and successors, on the thirty-first day of December in every year, with such apportionment, if any, as may be necessary in respect of the first of any such payments under this Act, and all sums of money payable to Her Majesty, her heirs and successors, by way of royalties or tonnage duties in respect of all gales shall be made up to and paid to Her Majesty, her heirs and successors, on the thirtieth day of June and the thirty-first day of December in every year.

Amendment of 59 Geo. 3. c. 86. as to recovery of gale rents.

36. The provisions of an Act passed in the session of Parliament held in the fifty-ninth year of the reign of His Majesty King George the Third, intituled "An Act for regulating the exercise "of the right of common of pasture in the New Forest, in the "county of Southampton, for repealing certain parts of two Acts "passed in the thirty-ninth and fortieth and the fifty-second years "of His present Majesty, and for the better collection and re-"covery of the gale rents in the Forest of Dean, in the county of "Gloucester," with respect to the recovery of money due for or in respect of gale rents payable within the said Forest of Dean, shall extend and apply to the recovery of all sums due to Her Majesty, her heirs and successors, in respect of galeage or dead or certain rent, royalty, or tonnage duty due in respect of any gale within the limits of this Act.

As to costs of arbitration.

37. From and after the passing of this Act section forty-nine of the Act of 1838 shall be and the same is hereby repealed, and in lieu thereof the following provisions shall have effect, that is to say, on the appointment by the Court of Exchequer of any arbitrator under the provisions of section forty-seven of the said Act, the rate and mode of the remuneration of such arbitrator shall be fixed by the court, and such remuneration and the expenses of such arbitrator, and also the remuneration and expenses of any arbitrator to be appointed under the provisions of the said section forty-seven by the gaveller or deputy gaveller for the time being, and any such person or persons as are in the same section

A.D. 1871.

mentioned, shall in the first instance be paid by the gaveller or the Commissioners of Woods on behalf of the Crown, but the Crown or the gaveller shall in every case be entitled to recover one moiety of such remuneration and expenses from the other party or parties to the arbitration: And the gaveller or deputy gaveller on the one hand, and the other party or parties to the arbitration on the other hand, shall in every case each respectively pay their or his own costs and expenses of and incident to the arbitration.

Scale of plans of new works.

38. All plans required to be made and kept under the provisions of the principal Acts and the rules made under the authority and in pursuance of the same shall, after the passing of this Act, be made on the scale of three chains to an inch.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1871.