

# In the Privy Council.

## ON APPEAL FROM THE SUPREME COURT OF CANADA.

BETWEEN:

THE BONANZA CREEK GOLD MINING COMPANY, LIMITED,  
(Suppliants) *Appellants*,

AND

HIS MAJESTY, THE KING,  
(Respondent) *Respondent*.

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### APPENDIX OF ACTS, ORDINANCES AND ORDERS-IN-COUNCIL.

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## No. 1.

## The British North America Act, (1867)

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65. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada or Canada, were or are before or at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice or with the Advice and Consent of the respective Executive Councils thereof, or in conjunction with those Councils or with any Number  
10 of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant Governor of Ontario and Quebec respectively, with the Advice or with the Advice and Consent of or in conjunction with the respective Executive Councils, or any Members thereof, or by the Lieutenant Governor individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be abolished or altered by the respective  
20 Legislatures of Ontario and Quebec.

\* \* \* \* \*

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order and Good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

- 30 1. The Public Debt and Property.
2. The Regulations of Trade and Commerce.
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and allowances of Civil and Other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
- 40 10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.

13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency. 10
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively 20 to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

\* \* \* \* \*

**92.** In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province except as regards 30 the Office of Lieutenant-Governor.
2. Direct Taxation within the Province in order to the Raising of a Revenue for Provincial Purposes.
3. The Borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province. 40
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licenses, in order to

the raising of a Revenue for Provincial, Local, or Municipal Purposes.

- 10. Local Works and Undertakings other than such as are of the following Classes:
  - (A) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province.
  - (B) Lines of Steam Ships between the Province and any British or Foreign Country;
  - (C) Such Works, as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general advantage of Two or more of the Provinces.
- 11. The Incorporation of Companies with Provincial Objects.
- 12. The Solemnization of Marriage in the Province.
- 13. Property and Civil Rights in the Province.
- 14. The Administration of Justice in the Province, including the Constitution, Maintenance and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
- 15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of subjects enumerated in this Section.
- 16. Generally all Matters of a merely local or private Nature in the Province.

\* \* \* \* \*

121. All Articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

THE FOURTH SCHEDULE.

- Assets to be the Property of Ontario and Quebec Conjointly.
- Upper Canada Building Fund.
- Lunatic Asylums.
- Normal School.
- Court Houses
  - in
    - Aylmer,
    - Montreal,
    - Kamouraska,
- Law Society, Upper Canada.
- Montreal Turnpike Trust.
- University Permanent Fund.

} Lower Canada.

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Royal Institution.  
 Consolidated Municipal Loan Fund, Upper Canada.  
 Consolidated Municipal Loan Fund, Lower Canada.  
 Agricultural Society, Upper Canada.  
 Lower Canada Legislative Grant.  
 Quebec Fire Loan.  
 Temiscouata Advance Account.  
 Quebec Turnpike Trust.  
 Education—East.  
 Building and Jury Fund, Lower Canada. 10  
 Municipalities Fund.  
 Lower Canada Superior Education Income Fund.

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No. 2.

An Act respecting the Incorporation and Regulation of Joint Stock Companies, Revised Statutes of Ontario, 1897, cap. 191, section 9, (as amended by 62 Victoria, cap. 11, s. 21).

\* \* \* \* \*

9. The Lieutenant-Governor-in-Council may, by letters patent, grant a charter to any number of persons, not less than five, who petition therefor, creating and constituting such persons and any others who have become subscribers to the memorandum of agreement, a body corporate and politic 20 for any of the purposes or objects to which the legislative authority of the Legislature of Ontario extends except the construction and working of railways within the Province of Ontario, the business of insurance and the business of a loan corporation within the meaning of The Loan Corporations Act.

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No. 3.

An Act respecting Insurance Companies, (Assented to 22nd May, 1868), 31 Victoria, chapter 48.

\* \* \* \* \*

1. The following terms and expressions whenever used in this Act, unless it be otherwise specially provided, or there be something in the context repugnant to, or inconsistent with such construction, shall be construed and 30 interpreted as hereinafter mentioned, that is to say:

“Company” means and includes any Corporation, and any Society or Association, incorporated or unincorporated, and any partnership carrying on the business of Insurance other than that of Marine Insurance only;

“Agent” means the principal agent of the Company in Canada, named

as such in the power of Attorney hereinafter referred to, by whatever name he may be designated;

"Chief Agency" means the principal office or place of business of the Company in Canada.

2. Except Companies transacting in Canada Ocean Marine Insurance business exclusively, it shall not be lawful for any Insurance Company to issue any Policy of Insurance, or take any risk or receive any premium or transact any business of Insurance in Canada, or to prosecute or maintain any suit, action or proceeding either at Law or in Equity, or to file any claim  
10 in Insolvency, without first obtaining a License from the Minister of Finance to carry on business in Canada; but the premiums to become due on policies actually issued previous to this date, may continue to be received, and the losses arising thereon may be paid as if this Act had not been passed.

3. The Minister of Finance shall issue such License as aforesaid, so soon as the Company applying for the same has deposited through him in the hands of the Receiver General, the sums of money or securities hereinafter mentioned and required, and such License shall specify the business to be carried on by the Company.

4. The deposit to be so made, as aforesaid, shall be as follows, to wit:  
20 By every Life, Fire, Inland Marine, Guarantee or Accident Insurance Company, a sum of not less than Fifty Thousand Dollars, and such sum shall be deposited before the License is issued, except only in the case of Companies incorporated before the passing of this Act, by Act of the Parliament of Canada, or of the Legislature of any of the late Provinces of Canada, Lower Canada or Upper Canada, or of Nova Scotia or New Brunswick, or which may have been or may hereafter be incorporated by the Parliament of Canada or by the Legislature of any Province of the Dominion, and carrying on the business of Life or Fire Insurance, or of Inland Marine Insurance, or both the latter, but no other, which Companies may make such deposit in three  
30 equal annual instalments, the first of which shall be paid before the issue of the License, on or before the first day of August, one thousand eight hundred and sixty-nine.

\* \* \* \* \*

23. The Minister of Finance shall publish quarterly in *The Canada Gazette*, a list of Companies licensed under this Act with the amount of deposits made by each, stating whether such deposit is for the security of the Canadian policyholders, exclusively, or for the general security of all policyholders.

\* \* \* \* \*

25. The Provisions of this Act as to deposit and issue of license shall not apply to any Insurance Company incorporated by any Act of the Legislature  
40 of the late Province of Canada or incorporated or to be incorporated under any Act of any one of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick, so long as it shall not carry on business in the Dominion beyond the limits of that Province by the Legislature or Government of which it was incorporated, but it shall be lawful for any such company to avail itself of the provisions of this Act.

## No. 4.

An Act to amend and consolidate the several Acts respecting Insurance, in so far as regards Fire and Inland Marine business. (Assented to 8th April, 1875), 38 Victoria, Chapter 20.

\* \* \* \* \*

1. The following terms and expressions whenever used in this Act, unless it be otherwise specially provided, or there be something in the context repugnant to or inconsistent with such construction, shall be construed and interpreted as hereinafter mentioned, that is to say:

(1) "Canadian Company" means a Company incorporated in Canada, for purposes of fire or inland marine insurance business or both, in Canada, and having its head office therein, and entitled under the second section of this Act to receive a license as such;

(2) "Foreign Company" means a company, incorporated or duly established according to the laws of any foreign country (including the United Kingdom) for purposes of fire or inland marine insurance business, or both, and entitled under the second section of this Act to receive a license as such in the Dominion of Canada;

(3) "Agent" means the chief agent of the company in Canada, named as such in the power of attorney hereinafter referred to, by whatever name he may be designated;

(4) "Chief Agency" means the principal office or place of business of the company in Canada.

2. This Act shall apply only to companies heretofore incorporated by any Act of the legislature of the late Province of Canada, or by any Act of the Legislature of any of the Provinces of Canada, and which upon the day of the passing of this Act, were also licensed under Act of the Parliament of Canada to transact business of insurance in Canada, and also to any company heretofore or which may hereafter be incorporated by Act of Parliament of Canada, and to any foreign insurance company as hereinbefore defined; and it shall not be lawful for the Minister of Finance to license any other company than those in this section above mentioned; and no other company than those above mentioned shall do any business of fire or inland marine insurance throughout the Dominion of Canada; but nothing herein contained shall prevent any insurance company incorporated by or under any Act of the legislature of the late Province of Canada or of any Province of the Dominion of Canada, from carrying on any business of insurance, within the limits of the late Province of Canada, or of such Province only, according to the powers granted to such insurance company within such limits as aforesaid, without such license as hereinafter mentioned.

3. Except such insurance companies as are mentioned in the proviso to the next preceding section, or companies transacting, in Canada, ocean marine business exclusively, (all insurance above the Harbour of Montreal to be held to be inland insurance), it shall not be lawful for any insurance company to accept any risk or issue any policy of fire or inland marine in-



insurance, or receive any premium or transact any business of fire or inland marine insurance in Canada, or to prosecute or maintain any suit, action or proceeding, either at law or in equity, or to file any claim in insolvency, relating to such business, without first obtaining a license (as hereinafter provided for) from the Minister of Finance to carry on business in Canada.

No. 5.

An Act to amend and consolidate certain Acts respecting Insurance.  
(Assented to 28th April, 1877), 40 Victoria, chapter 42.

\* \* \* \* \*

1. The following terms and expressions whenever used in this Act, unless it be otherwise specially provided, or there be something in the context repugnant to, or inconsistent with such construction, shall be construed and interpreted as hereinafter mentioned, that is to say:

(1) "Company" means and includes any corporation and any society or association, incorporated or unincorporated, and any partnership carrying on the business of insurance other than ocean marine insurance only;

(2) "Agent" means the chief agent of the Company in Canada, named as such in the power of attorney hereinafter referred to, by whatever name he may be designated;

(3) "Chief Agency" means the principal office, or place of business of the Company in Canada.

(4) "Canadian Policy" or "Policy in Canada" means a policy issued by any company licensed under this Act to transact the business of life insurance in Canada in favour of any person or persons resident in Canada at the time when such policy was issued, and "policy-holder in Canada" means any such person as aforesaid.

This Act may be cited as "The Consolidated Insurance Act, 1877"; and this Act and the Act thirty-eighth Victoria, chapter 20, may be cited together as "The Insurance Acts of 1875 and 1877."

2. It shall not be lawful for any Insurance Company to issue any policy of life insurance or to grant any annuity on lives or receive any premium or transact any business of life-insurance, in Canada, or to prosecute or maintain any suit, action or proceeding either at law or in equity, or to file any claim in insolvency relating to such business, founded on any policy in Canada, without first obtaining a license (as hereinafter provided for) from the Minister of Finance to carry on such business in Canada; but this Act shall not apply to any policy in Canada, issued previously to the twenty-second day of May, in the year one thousand eight hundred and sixty-eight, by any Company which has not subsequently received a license.

\* \* \* \* \*

28. This Act shall not apply to any company within the exclusive legislative control of any one of the Provinces of Canada, unless such company so

desires; and it shall be lawful for any such company to avail itself of the provisions of this Act, and, if it do so avail itself, such company shall then have the power of transacting its business of insurance throughout Canada.

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No. 6.

An Act respecting Insurance. Revised Statutes of Canada, 1906, Chapter 34.

\* \* \* \* \*

2. In this Act, unless the context otherwise requires,—

\* \* \* \* \*

(c) "Company" means and includes any corporation or any society or association, incorporated or unincorporated, or any partnership carrying on the business of insurance;

(d) "Canadian company" means a company incorporated or legally formed in Canada, for the purpose of carrying on the business of insurance in Canada, and which has its head office therein;

\* \* \* \* \*

(h) "Canadian policy" or "policy in Canada," as regards life insurance, means a policy issued by any company licensed under this Act to transact the business of life insurance in Canada, in favour of any person or persons resident in Canada at the time when such policy was issued;

(i) "Canadian policy" or "policy in Canada," as regards fire and inland marine insurance, means a policy of insurance on any property within Canada issued by any company licensed under this Act to transact the business of fire or inland marine insurance;

\* \* \* \* \*

(u) "Policyholder in Canada" means as respects life insurance any person in favour of whom any company licensed under this Act to transact the business of life insurance in Canada has, while such person was resident in Canada, issued a policy;

\* \* \* \* \*

4. The provisions of this Act shall not apply,—

\* \* \* \* \*

(c) To any company incorporated by an Act of the legislature of the late province of Canada, or by an Act of the legislature of any province now forming part of Canada, which carried on the business of insurance, wholly within the limits of the province by the legislature of which it was incorporated, and which is within the exclusive control of the legislature of such province;

\* \* \* \* \*

(2) Upon its being established to the satisfaction of the Treasury Board that the occupation of the members of any society or organization of persons

for fraternal, benevolent, industrial or religious purposes, among which purposes is the granting of life, accident, sickness or disability insurance to the members thereof exclusively, is of such a hazardous nature that the members of such society or organization are either wholly unable to obtain insurance in the licensed insurance companies or are able to obtain it only to a limited extent and upon the payment of very high premiums, the Treasury Board may exempt from the provisions of this Act such society or organization or any association for the purpose of life, accident, sickness or disability insurance, or any one or more of such kinds of insurance, formed in connection  
10 with such society or organization, and exclusively from its members and which insures such members exclusively.

(3) Any company incorporated by an Act of the legislature of the late Province of Canada or by an Act of the legislature of any province now forming part of Canada, which carries on the business of insurance wholly within the limits of the province by the legislature of which it was incorporated and which is within the exclusive control of the legislature of such province, may, by leave of the Governor-in-Council, avail itself of the provisions of this Act on complying with the provisions thereof; and if it so avails itself the provisions of this Act shall thereafter apply to it, and such company  
20 shall thereafter have the power of transacting its business of insurance throughout Canada.

(4) Any society or association of persons for fraternal, benevolent, industrial or religious purposes, among which purposes is the insurance on the assessment system only of the lives of the members thereof exclusively, or any association for the purpose of life insurance on such system only formed in connection with any such society or association and exclusively from its members, and which insures the lives of such members exclusively may apply to the Minister to be allowed to avail itself of the provisions of the second Part of this Act, and upon such application being assented to,  
30 such society or association shall cease to be exempt from the application of this Act.

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No. 7.

An Act respecting the incorporation of Joint Stock Companies by Letters Patent. (Assented to 15th May, 1902), 2 Edward VII, Chapter 15.

\* \* \* \* \*

3. In this Act, and in all letters patent and supplementary letters patent issued under it, unless the context otherwise requires:

(A) The expression "the company" or "a company" means any company to which this Act applies;

(B) The expression "the undertaking" means the business of every  
40 kind which the company is authorized to carry on.

\* \* \* \* \*

13. Any company incorporated under any general or special Act of any of the Provinces of Canada, and any company duly incorporated under the

laws of the United Kingdom or of any foreign country for any of the purposes or objects for which letters patent may be issued under this Act, and being at the time of the application a subsisting and valid corporation, may apply for letters patent under this Act, and the Secretary of State, upon receiving satisfactory evidence that the Act of Incorporation or charter of the company so applying is valid and subsisting and that no public or private interest will be prejudiced, may issue letters patent incorporating the shareholders of the company so applying as a company under this Act, limiting, if necessary, the powers of the said company to such purposes or objects as might have been granted had the shareholders applied in the first instance 10 to the Secretary of State for letters patent under this Act, and thereupon all the rights and obligations of the former company shall be transferred to the new company, and all proceedings may be continued or commenced by or against the new company, that might have been continued or commenced by or against the old company; and it shall not be necessary in any such letters patent to set out the names of the shareholders; and after the issue of the letters patent the company shall be governed in all respects by the provisions of this Act, except that the liability of the shareholders to creditors of the old company shall remain as at the time of the issue of the letters patent.

20

(2) Every company desirous of obtaining letters patent under this section shall first file in the office of the Secretary of State of Canada, a certified copy of the charter or Act incorporating the company, and shall also designate the place in Canada where its principal office will be situated and the name of the agent or manager in Canada authorized to represent the company and to accept process in all suits and proceedings against the company for any liabilities incurred by the company therein.

(3) Every such company to which such letters patent have been granted, when so required, shall make a return to the Secretary of State of the names of its shareholders, the amount of its paid-up capital and the value of its real 30 and personal estate held in Canada, and in default of making the said return within three months the letters patent may be cancelled.

(4) Notice of the issue of such letters patent shall be published in *The Canada Gazette*.

(5) The fees payable for such letters patent shall, from time to time, be fixed by the Governor-in-Council.

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No. 8.

An Act respecting Companies. Revised Statutes of Canada, 1906,  
Chapter 79.

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17. Any company incorporated under any general or special Act of any 40 of the Provinces of Canada, and any company duly incorporated under the laws of the United Kingdom or of any foreign country for any of the purposes

or objects for which letters patent may be issued under this Part, and being at the time of the application a subsisting and valid corporation, may apply for letters patent under this Part, and the Secretary of State, upon receiving satisfactory evidence that the Act of Incorporation or charter of the company so applying is valid and subsisting, and that no public or private interest will be prejudiced, may issue letters patent incorporating the shareholders of the company so applying as a company under this Part, limiting, if necessary, the powers of the said company to such purposes or objects as might have been granted had the shareholders applied in the first instance to the  
 10 Secretary of State for letters patent under this Part, and thereupon all the rights, property and obligations of the former company shall be and become transferred to the new company, and all proceedings may be continued or commenced by or against the new company that might have been continued or commenced by or against the old company.

(2) It shall not be necessary in any such letters patent to set out the names of the shareholders.

(3) After the issue of such letters patent the company shall be governed in all respects by the provisions of this Part, except that the liability of the shareholders to creditors of the old company shall remain as at the time of  
 20 the issue of the letters patent.

[Sections 18, 19 and 20 correspond to sub-sections (2), (3), and (4) of 2 Ed. VII, cap. 15, s. 13, printed above.]

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No. 9.

AT THE GOVERNMENT HOUSE AT OTTAWA.

Saturday, the 3rd day of December, 1898.

Present

HIS EXCELLENCY IN COUNCIL.

Whereas a number of applications have been received for locations in the Yukon Territory for the purpose of the ground being worked by the  
 30 hydraulic method of mining or by other means requiring operations on a large scale;

AND WHEREAS it is deemed advisable to provide for the setting apart of suitable ground for the purpose aforesaid, and it is considered that the public interest will be best served by the right to work the ground set apart being put up to public competition, provision being made for the protection of persons, who by themselves, or others acting for them, have heretofore prospected any particular ground for which they have filed applications;

THEREFORE His Excellency, by and with the advice of the Queen's Privy Council for Canada, has been pleased to make, and doth hereby make

the following Regulations for the disposal of mining locations to be worked by the hydraulic or other mining process:

1. Locations on any stream, watercourse or plateau in the Yukon Territory, shall have a frontage in direct line of from one to five miles in length, as may be decided by the Minister of the Interior, and a depth of one mile, but where such location is situate in a valley its depth may extend to the limits of the valley if so ordered by the Minister of the Interior; Provided that in the case of a location situate on a stream or watercourse the depth of such location shall be measured from low watermark, and the lease thereof shall be subject to any lease for the dredging of such stream or watercourse 10 which may have been issued prior to the date of the lease of the location.

2. Each alternate claim shall, until otherwise ordered by the Minister of the Interior, be reserved.

3. To any person who has prior to the date hereof filed an application in the Department of the Interior at Ottawa, or in the office of the Commissioner of the Yukon Territory, or in the office of the Gold Commissioner, for a mining location in the Yukon Territory not provided for by the Mining Regulations already in force, the Minister of the Interior may issue a lease subject to the same conditions as to size and otherwise and conferring the same rights as a lease issued under these Regulations for a location acquired 20 at public competition; provided that the Commissioner has reported that it has been proved to his satisfaction that the applicant himself, or a person acting for him, was upon and actually prospected prior to the date hereof the ground included in the location, and provided further that the Gold Commissioner has reported that the ground included in the location is not being worked and is not suitable to be worked under the Regulations governing placer mining. But under this section no person shall be given a lease for more than one location.

4. The unreserved locations not disposed of under the next preceding section shall be offered at public competition, and awarded to the highest 30 bidder after being advertised in such manner and at such time as the Minister of the Interior may direct; and to the person or corporation to whom any such location may be awarded at such competition, the Minister of the Interior may, after such person or corporation has obtained a free miner's certificate as provided in the Regulations governing placer mining, and filed in the Department of the Interior at Ottawa, within a period to be fixed by the Minister, a Dominion Land Surveyor's plan of the location, issue a lease for the same for a term not exceeding twenty years, such lease to be renewable for a further period of twenty years upon the performance to the satisfaction of the Minister of the Interior of the conditions imposed 40 thereby.

5. In addition to the bonus offered there shall be paid in advance by each lessee an annual rental of \$150.00 for each mile of frontage; and the same royalty shall be paid upon the output of gold as is provided or may hereafter be provided in the case of placer claims, except that there shall be exempted from such royalty \$25,000 of the annual output, the royalty to be paid in the manner provided in the Regulations governing Placer Mining.

6. The lease shall be in such form and contain such conditions not inconsistent with these Regulations, as may be approved of by the Minister of the Interior.

7. The lessee shall be required to begin active operations on his location within one year from the date of his lease, and he shall be required to expend in operating his location not less than \$5,000.00 during each year from the date of the lease.

8. The lease shall not convey the right to mine for any minerals other than precious metals, nor shall it convey the right to engage in quartz mining otherwise than in accordance with and subject to the Regulations governing quartz mining, and it shall reserve to free miners the right to enter upon the location covered by it, take up, locate and mine for minerals, in veins or lodes in the manner provided in the said Regulations.

9. The lessee shall have the exclusive right to enter upon and occupy his location for the purpose of mining thereon, but the lessee shall not prevent free ingress and egress to any person requiring to cross his location or the conveyance thereover of any mining appliances, apparatus or plants which may be required in the working of any other mining ground; and the lessee's right or occupation shall be subject to all orders which may be made by the Minister of the Interior, or the Gold Commissioner, as to such right-of-way, and also for ditches, flumes or tramways as may by the said Minister or Gold Commissioner be considered necessary or advisable in order to facilitate the working of any other mining ground, and subject further to such orders as may be made by the Minister of the Interior or the Commissioner of the Yukon Territory as to the right-of-way for railways, roads or other public works.

10. The lessee's right to water on his location or to the diversion of water in connection with his operations thereon shall be subject to the Regulations approved by Order-in-Council of the 3rd August, 1898.

11. The holder of a lease may cut, free of dues, such of the timber on a location as may be necessary for working the same in connection with his mining operations, but not for sale or traffic, except in cases where such timber has been granted or disposed of prior to the date of the lease; provided that the Commissioner of the Yukon Territory may grant a permit to a leaseholder to cut and sell any timber which it is necessary to remove in order to work the location, and may permit any person to cut and remove from a location cordwood for his own use when such cordwood cannot otherwise be had within a reasonable distance; but no such permit shall convey the right to cut or remove wood required by the lessee for his mining operations.

12. In case any lessee shall at any time make default in the payment of the rental or the royalty payable under these Regulations, or shall make default in the performance of the conditions imposed by these Regulations, or by the lease, the Gold Commissioner may post a notice in a conspicuous place upon the location in connection with which such default has been made, and may mail a copy of such notice to the last address of the lessee known to the Commissioner requiring such default to be remedied, and in case such default is not remedied within three months of the date of the posting

of the notice upon the location, all the rights of the lessee under the lease and under these Regulations shall be and become *ipso facto* null and void.

13. When it is decided to hold any ground for the purpose of the same being included in locations under these Regulations the Gold Commission shall cause a notice to that effect to be posted in a prominent and conspicuous place in the office of the Mining Recorder of the District in which the ground is situate; and after the posting of such notice no occupation or right under the Regulations governing placer mining shall be recognized on any ground so held; but any *bona fide* occupation or right acquired under such Regulations prior to the posting of such notice shall be recognized and the Gold Commissioner shall make provision for the miner who has acquired such occupation or right being protected in the same.

14. If any case arises for which no provision is made in these Regulations, the provisions of the Regulations governing the disposal of mineral lands other than coal lands, approved by His Excellency the Governor-in-Council on the 21st March, 1898, and of the Placer Mining Regulations approved on the 18th January, 1898, or such other Regulations as may be substituted therefor shall apply.

(Signed) JOHN J. MCGEE,  
*Clerk of the Privy Council.* 20

TO THE HONOURABLE,  
THE MINISTER OF THE INTERIOR.

N.B.—Published in *The Canada Gazette*, of 7th January, 1899, Vol. 32, No. 28, for the fourth consecutive week.

NOTE.—Above Regulations may be found in 62-64 Victoria, Page lxii.

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No. 10.

Consolidated Ordinances of the Yukon Territory, Chapter 59.

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2. Any company, institution or corporation incorporated otherwise than by or under the authority of an Ordinance of the Territory or an Act of the Parliament of Canada desiring to carry on any of its business within the Territory may (through the Territorial Secretary) petition the Commissioner for a license so to do, and the Commissioner may thereupon authorize such company, institution or corporation to use, exercise or enjoy any powers, privileges and rights set forth in the said license.

(2) No such license shall be issued until such company, institution or corporation has deposited in the office of the Territorial Secretary a true copy of the Act, charter or other instrument incorporating the company, institution or corporation verified in the manner which may be satisfactory to the Commissioner, together with a duly executed power of attorney empowering some person therein named and residing in the Territory to act as 40



its attorney and to sue and be sued, plead or be impleaded in any court and generally on behalf of such company, institution or corporation, and within the said Territory to accept service of process and to receive all notices and for the purposes aforesaid to do all acts and to execute all deeds and other instruments relating to the matters within the scope of the power of attorney; and such company, institution or corporation may from time to time by a new or other power of attorney executed and deposited as aforesaid appoint another attorney within the Territory for the purposes aforesaid, to replace the attorney formerly appointed; and notice of the granting of such license shall be given forthwith by the Territorial Secretary in the official *Gazette*.

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No. 11.

Extract from a Report of the Committee of the Honourable The Privy Council, Approved by the Governor-General on the 6th July, 1905.

On a Report dated 19th May, 1905, from the Minister of the Interior, submitting that by an Order-in-Council dated 30th January, 1904, provision was made that the Commissioner of the Yukon Territory may, upon approval by him of an application to impound the surplus water of any creek or gulch for mining purposes, withdraw from mining entry, under the regulations in that behalf, any vacant ground required as a reservoir site, or for any other  
 20 purpose in connection with the storage of water, but only ground which has been prospected and found worthless for placer mining purposes, or which has been worked out and abandoned, shall be eligible for withdrawal from entry for such purpose; the approval by the Commissioner of an application, and the withdrawal by him of the ground from mining entry, to be subject to cancellation by the Minister of the Interior during a period of ninety days after public notice of such action having been taken has been given by the Commissioner.

The Minister states that application was made to the Gold Commissioner at Dawson, on behalf of the holders of Hydraulic Mining Leases Nos.  
 30 2, 8 and 9, comprising tracts of land situate on the left limit of Bonanza Creek, in the Yukon Territory, known as the Matson and Doyle location, for permission, under the provisions of the above Order-in-Council, to impound by means of a dam or dams to be constructed at or above Placer Mining Claim No. 24 on Adams Creek, a tributary of Bonanza Creek, on its left limit, the surplus waters of that stream, and the provisions of the regulations having been complied with, public notice was given on the 17th June, 1904, that the Commissioner of the Yukon Territory had approved of the application and had withdrawn from placer mining entry the ground which  
 40 the application and withdrawal of the land were received in the Department of the Interior within ninety days from that date, the action taken by the Commissioner was confirmed on the 14th October, 1904.

The Minister also states that application has now been made on behalf of the holders of the above hydraulic mining leases for permission to use the water to be impounded, for their own purposes, and to distribute and sell it for mining purposes to any miner who may apply therefor.

The Minister recommends, as there appears to be no objection to the permission asked for being granted, that he be authorized to permit the applicants to store, divert, distribute and dispose of the unentered and unappropriated waters of Adams Creek at or above Placer Mining Claim No. 24, on that stream, for a period of fifteen years from the date of the grant to them upon the following terms and conditions, subject to the provisions of 10 the regulations for the disposal of the right to divert and use water from any stream or lake in the Yukon Territory, approved by Order-in-Council dated 3rd August, 1898:

1. That the applicants' rights to store, divert, distribute and dispose of water from Adams Creek shall be confined to the unentered and unappropriated waters only, the intake, and out-take of water to be measured in a manner satisfactory to the Government Mining Engineer, so as to ensure that the applicants reserve and divert the waste waters only, which would otherwise be permitted to escape.

2. That the applicants shall, within one year from this date, furnish 20 proof through the Government Mining Engineer, to the satisfaction of the Minister of the Interior, that they have expended not less than \$5,000 in the actual construction of the works necessary for the storage and diversion of this water. They shall also prosecute the construction of their water scheme with reasonable diligence to the satisfaction of the Minister of the Interior, and shall complete all the works necessary for the storage and diversion of the water applied for not later than the first day of June, 1908.

3. That a weir shall be constructed above the dam to measure the water flowing into the reservoir, and one at the dam to measure the water flowing 30 from such reservoir.

4. That the price to be charged for the water shall be fixed by the grantees, subject, however, to amendment by the Governor-General-in-Council.

5. That permission to divert and dispose of the water shall not be given until a certificate is issued by the Government Mining Engineer to the effect that he is satisfied as to the safety of the dam or dams constructed, and the holders of this water right shall at all times be responsible for any damage or loss which may be occasioned by any leak or break, or imperfection in any part of the works, and they shall grant suitable indemnity, to the satisfaction 40 of the Minister of the Interior, for any such damage or loss.

6. That this grant shall be subject to the rights of all such miners as are working on the stream above or below the dam or ditch-head, or of any other person or persons lawfully using the waters of Adams Creek for any purpose whatsoever, and subject also to any and every subsisting grant of water rights on the said creek, issued under the regulations to any person or persons, party or corporation, prior to the coming into force of this Order-in-Council.

7. That the applicants will be required to purchase, at a price to be fixed by the Commissioner of the Yukon Territory, the surface rights of the lands which may be submerged by reason of the construction of the dam or the creation of a reservoir.

The Committee submit the same for approval.

(Signed) JOHN J. MCGEE,  
*Clerk of the Privy Council.*

To The Honourable  
The Minister of the Interior.

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No. 12.

Extract from a Report of the Committee of the Privy Council, Approved by the Governor-General, on the 21st May, 1906.

On a Report dated 8th May, 1906, from the Minister of the Interior, stating that on the 10th June, 1899, and 5th January, 1900, Hydraulic Mining Leases Nos. 2 and 8 were issued in favour of Mr. J. J. Doyle and his associates for a tract of land lying between Boulder Creek and Fox Gulch and on the 13th January, 1900, Lease No. 9 was issued in favour of C. A. Matson and his associates for a tract of land lying between Fox Gulch and Adams' Creek, both locations being on the left limit of Bonanza Creek in the  
20 Yukon Territory.

The Minister further states that these hydraulic mining locations included within their boundaries placer mining claims for which entries have been granted and which were in good standing when the leases were issued, and therefore, these claims did not form any portion of the hydraulic mining leaseholds although lying within the boundaries thereof. The lessees represented that as a large number of these mining claims have been staked and recorded between the date upon which the applications for leases in their favour were made and the date upon which such leases were issued the grantees thereof had no serious intention of working the same, and they  
30 ask that they be granted all mining claims within the limits of the locations leased to them which might revert to the Crown or become forfeited.

The Minister also states that on the 9th and 15th January, 1900, agreements were entered into between the Department of the Interior and the hydraulic mining lessees to the effect that supplementary leases would be issued in their favour of any placer mining claims within the leaseholds which might revert to the Crown, provided that applications were made therefor within one year from the date of the reversion, and provided also that a satisfactory plan of each such claim was filed in the Department of the Interior at Ottawa.

40 The Minister also states that although a number of claims within the limits of these locations have since the dates of the agreements been

abandoned or forfeited, no supplementary lease has been issued by the Department of the Interior for any such claim, and the lessees complain that the provisions made in the agreements whereby they are required to file in the Department of the Interior a satisfactory plan of each reverted or abandoned claim in order that the same may be leased to them is unnecessary and expensive.

The Minister further states that the Commissioner of the Yukon Territory, who has had this matter under consideration, is of the opinion that a survey of each reverted or abandoned claim within the limits of the hydraulic mining leaseholds might, under all the circumstances, be dispensed with and he has recommended that the agreements made with the lessees of the locations above referred to be cancelled and that new agreements be entered into which will not require the lessees to have a survey made of the reverted or abandoned claims, and which will provide that all such claims within the limits of the leaseholds will revert to the Crown and will not be open to entry under the provisions of the Placer Mining Regulations, but will be granted to the lessees, provided all rights of the former owners thereof have expired.

The Minister recommends, as the position of all placer mining claims within the hydraulic mining locations described in leases 2, 8 and 9, which are abandoned or forfeited, is well known and as a special survey thereof would scarcely appear to be necessary, while it is very expensive to the lessees, that, by virtue of Clause 47 of the Dominion Lands Act, as enacted by Section 5 of Chapter 15 of 55-56 Victoria, and of Section 8 of the Yukon Territory Act, as enacted by Section 3 of Chapter 34 of 2 Edward VII, all placer mining claims within the limits of the hydraulic mining locations described hereinabove, which may be abandoned or forfeited, or in connection with which the rights of the former owners thereof have expired, be not open to entry under the provisions of the Regulations Governing Placer Mining in the Yukon Territory, but be permitted to revert to the Crown.

The Minister further recommends that he be authorized to enter into an agreement with the lessees of these locations for the issue to them of supplementary leases for such reverted claims upon their complying with such conditions as it may seem reasonable to impose.

The Committee submit the same for approval.

(Signed) RODOLPHE BOUDREAU,  
*Assistant Clerk of the Privy Council.*

To The Honourable,  
The Minister of the Interior.

# In the Privy Council.

*On Appeal from the Supreme Court of Canada.*

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BETWEEN  
THE BONANZA CREEK GOLD MINING  
COMPANY, LIMITED - (Suppliants) *Appellants,*  
AND  
HIS MAJESTY, THE KING, (Respondent) *Respondent.*

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## APPENDIX OF ACTS, ORDINANCES AND ORDERS-IN-COUNCIL

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BLAKE & REDDEN,  
17, Victoria Street, S.W.