

Mr. Seddon.

MINING ACT 1886 AMENDMENT.

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A BILL INTITULED

AN ACT to amend "The Mining Act, 1886."

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

5 1. The Short Title of this Act is "The Mining Act 1886 Amendment Act, 1890."

Short Title.

2. In this Act, if not inconsistent with the context,—

Interpretation.

10 "Claim" has the same meaning as is attached to that word by "The Mining Act, 1886," and includes also a "licensed holding" under that Act, together with all right and interest belonging to such claim or holding:

15 "Share" means a share or interest in a mining claim as defined by this Act, and includes a share or interest in the capital, stock, and property of a mining partnership under this Act.

20 3. A mining partnership exists when two or more persons own or acquire a claim for the purpose of working it, and actually engage in working the same, or jointly employ others to work the same for them; and whether there be a written contract of partnership or not:

What constitutes a mining partnership.

Provided that this Act shall not apply to any company or association incorporated or registered under "The Companies Act, 1882," or "The Mining Companies Act, 1886," or under any charter granted by the Crown or any Act of the Imperial Parliament or of the General Assembly. 5

Express agreement not necessary for formation of partnership.

4. An express agreement to become partners, or to share the profits or losses of mining, is not necessary to the formation or existence of a mining partnership. The relation arises out of the ownership of shares in a claim, and working the same for the purposes for which the same were taken possession of or granted. 10

Proportionate share of interest held.

5. A member of a mining partnership shares in the profits and losses thereof in the proportion which the interest or shares he owns in the mine bears to the whole number of shares.

Partners to have lien on shares for amount of debts due to creditors.

6. Each member of a mining partnership has a lien on the partnership property for the debts due to the creditors thereof and for money advanced by him for its use; and on any one or more of the partners delivering to the Warden or Mining Registrar a statement in detail showing the names of the partners and creditors, and the amounts due to each partner or creditor, as the case may be, the Warden or Mining Registrar, if the claim be entered in the mining register, shall register the said lien: Provided that, before such lien shall be registered, a statutory declaration shall be made under "The Justices of the Peace Act, 1882," by the partner or partners applying to register such lien, certifying that the amounts set forth in the detailed statement are due and owing. Every such lien shall be registered in manner prescribed by regulations for that purpose under "The Mining Act, 1886," and a book shall be kept by the Mining Registrar, in which particulars of such lien shall be entered, and every [such statement may be inspected and the said book searched by any person on payment of the fee prescribed by the said Act; and any lien so registered shall be discharged in manner provided by regulations made as aforesaid. 15 20 25 30

Ground worked to be partnership property.

7. The claim owned and worked by partners in mining, whether purchased with partnership funds or not, is partnership property.

Purchaser from date of purchase becomes partner.

8. One or more of the partners in a mining partnership may convey or assign his interest in the claim without dissolving the partnership, and without the consent of the other members. The purchaser from the date of his purchase becomes a member of the partnership. 35

Purchaser takes interest subject to partner's lien for debts.

9. A purchaser of an interest in a claim of a mining partnership takes it subject to the liens existing in favour of the partners for debts due to all creditors thereof, or advances made for the benefit of the partnership, and which are included in a lien registered as before provided, but not further. 40

When mine working, purchaser takes notice of lien to partners and creditors.

10. A purchaser of the interest of a partner in a claim, when the partnership is engaged in working it, takes by and with such purchase notice of all liens resulting from the relation of the partners to each other and to the creditors of the partnership, and which are included in a lien registered as before provided, but not further. 45

Contracts by agent or manager not binding unless in writing.

11. No member of a mining partnership, or other agent or manager thereof, can by a contract in writing bind the partnership except by express authority in writing derived from the members thereof. 50

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12. The decision of the members owning a majority of the shares or interests in a mining partnership binds it in the conduct of its business.

Decision of majority binds members in conduct of business.

13. It shall be a ground for dissolution of a mining partnership if any member of a partnership shall neglect or refuse, within thirty days after personally receiving notice in writing thereof from the other partner or partners, to pay or satisfy any assessment of the partnership liabilities, or who shall neglect, when notified in writing by the other partner or partners so to do, to perform any labour or discharge any liability incurred, or to represent or have represented the share held in such claim, and by which such non-representation the copartnership property as a whole is or may become liable to forfeiture.

Non-representation ground for dissolution of partnership.

14. If any member of a partnership shall abandon or desert for a period of sixty days the interest held by him in any claim, and by such abandonment or desertion cause the whole of the partnership property to become liable to forfeiture, the other partners may institute proceedings to be put in possession of such abandoned share or interest, as though the partnership had never existed.

On abandonment or desertion of interest, partners may sue to be put in possession.

15. If at any time any share in any claim be unrepresented for forty-eight hours, and such non-representation shall prevent the proper and profitable working of such claim, the copartners or managing partner or person in charge of such claim may employ any person or persons at current rate of wages to represent and work the said share, and the person or persons so employed shall have a lien for his wages upon the share so represented by him; and the copartners, managing partner, or person in charge of the said claim may pay to such person or persons the amount due for wages out of any profits accruing to such share. And in case there be no profits, or the profits are insufficient to pay the wages due, the managing partner or other partners, or persons in charge, may pay the said wages, and to the extent of the moneys paid shall have a lien on the partner's share so represented and worked: Provided, where practicable, the copartners, managing partner, or person in charge shall, within seven days from the time any such person was first employed, give the absent partner or his agent notice in writing that a wages-man had been employed by them to represent such share: Provided, also, that any lien for wages under this section may be registered under the provisions and in the manner hereinbefore provided in the case of members of a mining partnership.

Partners may put on a wages-man.

16. This Act shall be read and construed with "The Mining Act, 1886," except in so far as the provisions herein contained are contrary to the provisions thereof, and all the provisions of the said Act shall extend and apply accordingly.

Act incorporated with "Mining Act, 1886."

Regulations may from time to time be made in the manner prescribed by "The Mining Act, 1886," for the purpose of—

- (1.) The practice and procedure in Wardens' Courts in respect of suits in or relating to mining partnerships as between the members thereof;
- (2.) The form of and mode of registering any lien authorised under this Act, and prescribing and regulating the procedure to enforce or obtain the benefit of such lien, and

the fees to be paid in respect of any such procedure or registration.

Date when to come into operation.

17. This Act shall come into force on and after the day of , one thousand eight hundred and ninety.

Amendment to "Mining Act, 1886."

18. "The Mining Act, 1886," is hereby amended as follows:— 5  
Section one hundred and three: The words "if such claim had not been surveyed" are hereby repealed.

Reduction rents, licensed holdings.

19. Subsection one of section one hundred and seventeen of the said Act is hereby repealed, and the following enacted in lieu thereof: 10  
That the licensee shall pay to the Receiver of Revenue every year during which he shall occupy the land comprised in the license a rent after the rate of three shillings and sixpence in respect of every acre and fractional part of an acre during the first three years of the term of such license, of seven shillings and sixpence for the succeeding five years, and ten shillings for the remainder of the term. 15

Reduction number men to be employed under special circumstances.

20. Subsection three of section one hundred and seventeen is hereby repealed, and the following enacted in lieu thereof: That the licensee of any holding or owners of any special or extended claim shall carry on mining operations in an efficient and workmanlike manner, and shall employ in such operations as many men, being able and competent workmen or miners, as shall be prescribed by the said Act or by regulations made thereunder. But if the number of men which the said Act or any regulations made thereunder sets forth shall be employed upon any licensed holding, special or extended claim, cannot, in the opinion of the Mining Inspector or Warden of the district, be 25  
reasonably and advantageously employed thereon, owing to want of water or other causes, the Mining Inspector or Warden may, by order in writing, for a period not exceeding four months, grant permission to the owner or owners of such licensed holding, special or extended claim, to work the same with a fewer number of men, such 30  
fewer number being the greatest that can be reasonably and advantageously employed. And any person applying to the Inspector for permission to work his holding or claim with a fewer number of men shall publicly notify such application twice prior to the Inspector dealing with such application. And any person applying to the 35  
Warden for the like privilege shall apply in like manner to that provided for obtaining the privileges enumerated in section one hundred and seventy-eight of the said Act, and the said application shall be dealt with as provided by sections one hundred and seventy-eight, one hundred and seventy-nine, and one hundred and eighty of the said 40  
Act.

Compensation Court assesses compensation water-races going through private lands.

21. The following words shall be added to and be construed as forming part of subsection ten of section one hundred and forty-two: The Compensation Court to have the same jurisdiction and be constituted in like manner as provided by section eleven of "The Mining 45  
Act, 1888," and to have and to exercise such jurisdiction and authority as a Compensation Court would have under Part III. of "The Public Works Act, 1882."

Land forfeited be open selection as unoccupied Crown lands.

22. Section one hundred and seventy is hereby repealed, and the following enacted in lieu thereof: As soon as any land is declared 50  
forfeited it shall be open to applicants as unoccupied Crown lands.

23. Section one hundred and seventy-one of the said Act is hereby repealed. Regulation twenty-three of the regulations made in respect of licensed holdings is hereby repealed, and hereafter it shall not be necessary for the plaintiff to lodge any deposit at the time of initiating proceedings for the cancellation of any licensed holding or special claim.

Repeal section 171, "Mining Act, 1886."

24. At the option of the applicant, prior to the survey of any licensed holding or special claim applied for, the Warden shall hold a preliminary inquiry as to the reasonableness or otherwise of granting such licensed holding or special claim; and if, on the day fixed for such preliminary hearing, there be no objections, or if there be objections and the said objections be overruled, the survey shall proceed, and the application be thereafter dealt with as provided by the regulations made in that behalf. And no objection, unless in case of encroachment, shall be entertained unless accompanied by a deposit of five pounds, and lodged prior to the day fixed for the final hearing of the said application.

Preliminary hearing application for licensed holding and special claim prior to survey.

25. On any survey of a licensed holding or special claim applied for having been made, the surveyor shall, with the plans of such licensed holding or special claim, in addition to the report thereon, furnish to the Warden a detailed statement, showing the amount of the costs and charges made for such survey. And the Warden shall have power to tax the said costs and charges.

Survey charges taxable.

26. Every judgment, decision, and determination of any Warden in any suit or application for mining rights shall be pronounced in open Court, and entered, within seven days after being pronounced, in a register kept for that purpose; and the words in section two hundred and fifty of "The Mining Act, 1886," "within ten days from the giving of the decision to which he objects," shall be read and construed to mean "within ten days from the date upon which such entry was made in the register."

Decision Warden be entered in register.

27. Notwithstanding anything contained in the said Act or any preceding Act relating to gold-mining, or under any rules and regulations that have been in force or are in force at the time of the passing of this Act, it shall not be necessary for the owner or owners of any water-race, licensed holding, claim, or other mining right to annually renew the certificate or license therefor. And any lease, license for a water-race, licensed holding, or special claim, or certificate for a claim, or other mining right, shall be valid, notwithstanding the same may not have been renewed: Provided that nothing herein contained shall be deemed to validate any defect other than a defect which may exist in such renewal of any such water-race, license, lease, certificate, or other mining right.

Annual renewal of rights not necessary.

28. The words "thirty days," in section eleven of "The Mining Act 1886 Amendment Act, 1887" (No. 13), are hereby repealed, and the words "one month" enacted in lieu thereof.

Amendment section 11, "Mining Act, 1887."