

New Zealand.



ANALYSIS.

- | | |
|--|--|
| <p>Title.
 Preamble.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Purchase of patent rights ratified. 3. Date of transfer thereof. 4. Saving of such patent rights. 5. Mode of exercise of patent rights. 6. Registration of Her Majesty's title thereto. 7. Payment of purchase-money authorised. 8. No person to use patent rights without a license. Saving as to certain companies. 9. Warden to issue licenses. 10. Licensee to pay prescribed royalty on gold and silver. Proviso. 11. Royalty may be on graduated scale. Where payable. | <ol style="list-style-type: none"> 12. Terms and conditions of license. 13. Penalty for using patent rights without license. 14. Computation of additional penalty. 15. Expenses and costs to be paid out of Consolidated Fund. 16. Annual statement of moneys received and paid. 17. Regulations. 18. Royalties to cease as soon as all moneys expended are recouped. 19. Rights not prejudicially affected. 20. Recovery of moneys. 21. Validity of patent rights. Schedule. |
|--|--|

1897, No. 23.

Title. AN ACT to assist the Development of Low-grade Ores, and otherwise promote the Mining Industry, by acquiring certain Patent and other Rights relating to the Extraction of Gold and Silver by what is commonly known as the Cyanide Process, and making that Process available on the Goldfields at reasonable Rates of Royalty. [22nd December, 1897.]

Preamble. WHEREAS by memorandum of agreement made between the Government of the colony and the Cassel Gold-extracting Company, Limited (hereinafter, with its assigns, included in the expression "the said Company"), a copy whereof is set forth in the Schedule hereto, the therein-mentioned patent rights in New Zealand were agreed to be purchased on behalf of the Government: And whereas the said company has agreed to certain modifications of the said agreement, hereinafter mentioned: And whereas it is one of the conditions of the said purchase that the same shall be subject to the approval of Parliament: And whereas it is expedient that such approval should be given, subject nevertheless to the modifications set forth in sections seven and twenty of this Act, and that the said patent rights in New Zealand should be rendered available for mining purposes at reasonable rates of royalty, in manner hereinafter appearing:

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

1. The Short Title of this Act is "The Cyanide Process Gold-extraction Act, 1897." Short Title.
2. The terms of the memorandum of agreement set forth in the Schedule hereto, and the purchase thereby expressed to be made, are hereby approved and ratified, subject to the modifications expressed in sections seven and twenty hereof. Purchase of patent rights ratified.
3. The patent rights in New Zealand, which in and by the said agreement are expressed to be sold to and purchased on behalf of the Government, are hereby transferred to and vested in Her Majesty, as on and from the twentieth day of August, one thousand eight hundred and ninety-seven, subject nevertheless to the full and free right and license heretofore granted by the said Company to and now possessed by each of the four companies mentioned in the said agreement, to use and employ the said patent rights in its mines. Date of transfer thereof.
4. Nothing in this Act contained shall operate or be construed as a merger, revocation, or extinguishment of any of the said patent rights. Saving of such patent rights.
5. The said patent rights shall be exercised and enforced on behalf of Her Majesty by the Minister of Mines in such manner, not inconsistent with this Act or the regulations thereunder, as he thinks fit. Mode of exercise of patent rights.
6. The Registrar of Patents, without further authority than this Act, shall from time to time do all such things, and make all such entries in his register and other books as are necessary for the purpose of duly registering Her Majesty's title as assignee and owner of such of the said patent rights as now are registered or hereafter become capable of registration under "The Patents, Designs, and Trade-marks Act, 1889." Registration of Her Majesty's title thereto.
7. The Colonial Treasurer, without further appropriation than this Act, may, out of the Consolidated Fund, pay to the said Company or its attorney in New Zealand whatsoever sum, not exceeding ten thousand pounds, is found to be due to the said Company under the said agreement, subject to the modifications hereinbefore referred to, upon a due adjustment being made to the satisfaction of the Minister of Mines in respect of all moneys received by the said Company as royalties or otherwise from any person (excepting the said four companies) for the use or employment of the said patent rights since the said twentieth day of August, one thousand eight hundred and ninety-seven. Payment of purchase-money authorised.
8. On and from the expiration of one month after the passing of this Act, it shall not be lawful for any person to directly or indirectly use or employ the said patent rights or any of them for the purpose of extracting gold or silver from ores or other compounds unless he is the holder of a license under this Act: No person to use patent rights without a license.
- Provided that, whilst the said patent rights continue to exist, nothing in this section shall be construed to render it unlawful for any of the said four companies to use and employ the said patent rights in its mines without being the holder of a license under this Act. Saving as to certain companies.
9. The license under this Act shall be in the prescribed form, and may be issued by the Warden of the mining district in or Warden to issue licenses.

nearest to which is situate the mine wherein the licensee proposes to use or employ the said patent rights.

Licensee to pay prescribed royalty on gold and silver.

10. The licensee shall, in respect of all gold and silver produced in such mine subsequent to the twentieth day of August, one thousand eight hundred and ninety-seven, whilst using or employing therein the said patent rights, pay such royalty as is prescribed, being not less than one and a half per centum nor more than two and a half per centum of the total value of such gold and silver :

Proviso.

Provided that in every case where, pursuant to any contract made with or license granted by the said Company prior to the passing of this Act, any person has paid or agreed to pay to the said Company any royalty or other charge in respect of the use or employment of the said patent rights for any period subsequent to the twentieth day of August, one thousand eight hundred and ninety-seven, he shall be entitled to claim the benefit of such payment, contract, or license in or towards satisfaction and discharge of his liability for royalty under this Act ; and the said Company shall be liable to Her Majesty for the deficiency (if any) thereby arising in respect of the royalty under this Act.

Royalty may be on graduated scale.

11. The royalty under this Act may be prescribed on a graduated scale, according to the value of the gold and silver produced from each ton of quartz or other ore, and shall in every case be payable at prescribed periods to the Receiver of Gold Revenue for the mining district wherein the license was issued.

Where payable.

Terms and conditions of license.

12. Every license under this Act shall be deemed to be issued subject to such terms and conditions as are prescribed.

Penalty for using patent rights without license.

13. If any person commits any breach of section eight hereof he is liable to a penalty not exceeding ten pounds for every day during which such breach continues, and also to an additional penalty of twice the amount that would have been payable in respect of royalty if he had duly complied with that section by obtaining a license.

Computation of additional penalty.

14. For the purposes of such additional penalty, an estimate by any Inspector of Mines shall be sufficient evidence of the amount of such royalty until the contrary is proved.

Expenses and costs to be paid out of Consolidated Fund.

15. All moneys payable under this Act, including the expenses incurred in administering this Act, and also the Attorney-General's costs of and incident to the proceedings referred to in the said agreement, shall be paid out of the Consolidated Fund ; and all moneys received in respect of royalties, penalties, and otherwise under the Act shall be paid into the Public Account and form part of the Consolidated Fund.

Annual statement of moneys received and paid.

16. Within ten days after the close of each financial year during which any moneys are received or paid under this Act, the Minister of Mines shall prepare and lay before Parliament, if in session, or, if not, then within seven days after the commencement of the first-ensuing session thereof, a statement showing all moneys so received and paid during such year.

Regulations.

17. The Governor may from time to time make such regulations as he deems necessary in order to give full effect to anything which by this Act is expressed to be prescribed, or to otherwise carry out the purposes of this Act, and in and by such regulations he may impose a penalty not exceeding ten pounds for any breach thereof.

18. As soon as the total of the moneys received under this Act and paid into the Consolidated Fund is equal in amount to the total of the moneys paid under this Act out of the Consolidated Fund, the Colonial Treasurer shall certify the fact to the Governor, who shall notify the same in the *Gazette*; and, on and after the date of the gazetting of such notification, sections eight to fourteen hereof shall cease to be in operation, nevertheless without affecting any liability for royalties owing or penalties incurred under this Act prior to such date.

Royalties to cease as soon as all moneys expended are recouped.

19. Nothing in this Act contained shall prejudicially affect any rights lawfully created by virtue of any letters patent heretofore or hereafter duly registered in New Zealand.

Rights not prejudicially affected.

20. In the exercise by the said company of the rights reserved to it under clause three of the memorandum of agreement set forth in the Schedule hereto the maximum amount which the said company shall be entitled to claim or recover from any person or company shall not exceed five per centum of the total value of the gold and silver produced by such person or company by means of the use or infringement of the said patent rights.

Recovery of moneys.

21. So long as sections eight to fourteen of this Act continue in operation no action or other proceeding shall be brought against Her Majesty to impeach the validity of the said patent rights or any of them.

Validity of patent rights.

SCHEDULE.

Schedule

MEMORANDUM OF AGREEMENT.

MEMORANDUM OF AGREEMENT made this fourth day of September, one thousand eight hundred and ninety-seven, between the CASSEL GOLD-EXTRACTING COMPANY, LIMITED (hereinafter with its assigns included in the expression "the said Company") of the one part, and the Honourable ALFRED JEROME CADMAN, Minister of Mines, acting on behalf of the Government of the Colony of New Zealand (hereinafter with his successors in office included in the expression "the Minister") of the other part:

WHEREAS the said Company is the beneficial owner of certain inventions and processes (commonly known as "the MacArthur-Forrest Processes") for the extraction of gold and silver from ores and other compounds, and also of certain patents in respect thereof (including two New Zealand patents, numbered respectively 2775 and 3296), and of the rights and privileges thereby conferred (all of which inventions, processes, patent rights, and privileges, together with the full benefit and advantage of all such amendments, improvements, and additions thereto as from time to time are directly or indirectly made or acquired by the said Company under their existing letters patent, whether in New Zealand or elsewhere, are hereinafter included in the expression "the said patent rights"), subject, nevertheless, to the full and free right and license heretofore granted by the said Company to and now possessed by each of the four companies following, that is to say:—

- (a.) The Waihi Gold-mining Company (Limited),
- (b.) The Waitekauri Gold-mining Company (Limited),
- (c.) The Union Waihi Gold-mining Company (Limited), and
- (d.) The New Zealand Crown Mines Company (Limited),

to use and employ the said patent rights in its mines: And whereas the said Company has warranted as the basis of this agreement that, except as hereinbefore mentioned, there is no company or person entitled under any contract or license with or from the said Company to use the said patent rights in the Colony of New Zealand: And whereas proceedings for the revocation of the said New Zealand patents were recently instituted in the Supreme Court of New Zealand by the Attorney-General, and are

now depending therein, but have by consent been stayed for the purposes of these presents: Now these presents witness that it is hereby agreed by and between the parties hereto as follows:—

1. Subject to the provisions hereinafter contained, the said Company sells and the Minister on behalf of the Government purchases from the said Company the said patent rights within the Colony of New Zealand, but not elsewhere, for the sum of fifteen thousand pounds (£15,000), to be paid forthwith on the passing of the Bill referred to in paragraph numbered six of this Agreement.

2. The date of the purchase shall be deemed to be the twentieth day of August, one thousand eight hundred and ninety-seven.

3. The said Company reserves to itself the right to recover all debts and to enforce all claims which at the date of the purchase were existing in respect of the use or infringement of the said patent rights by any person or company, and shall account to the Government for all moneys received by the said Company in respect of such use subsequent to that date; but nothing herein contained shall be construed as implying any obligation upon the said Company to recover, or take any step to recover, any moneys accrued or accruing due to the said Company for the use of the said patent rights after the date of the purchase.

4. The said Company shall not increase the present rate of charges for the use of the said patent rights, nor make any contract or engagement in respect thereof without the previous consent in writing of the Minister.

5. The purchase is subject and without prejudice to the hereinbefore-recited right and license of each of the companies aforesaid to use and employ the said patent rights in its mines.

6. The purchase is subject to the approval of Parliament by Bill to be introduced by the Government within ten days after the commencement of the now next-ensuing session.

7. The Bill may provide that the said patent rights purchased under this agreement may be surrendered, revoked, assigned, or otherwise dealt with in such other manner as Parliament thinks fit.

8. The purchase hereinbefore expressed shall be deemed to lapse and be cancelled if the Bill is rejected, or if it fails to pass, within twenty-one days after its introduction or such extended period as the said Company by its attorney, solicitor, or agent from time to time consents to.

9. In the event of the said purchase lapsing and being cancelled as aforesaid, all parties shall be deemed to be forthwith restored to their rights and position as existing immediately prior to the twentieth day of August, one thousand eight hundred and ninety-seven, but, in the meantime, the aforesaid proceedings shall remain stayed.

10. In the event of the purchase being approved by Parliament, the Company shall, at the request of the Government, do and execute whatever acts and instruments the Minister may require for the purpose of effectuating this agreement and disposing of the said proceedings, in such manner as he thinks fit, on the terms of each side paying its own costs.

In witness whereof these presents have been executed by or on behalf of the parties hereto.

THE CASSEL GOLD-EXTRACTING COMPANY (LIMITED),
By its Attorney,
H. HOWARD GREENWAY.

Witness to execution of Company's Attorney—
J. G. FINDLAY, Solicitor, Wellington.

Witness to execution of the Minister—
B. M. WILSON, Private Secretary, Wellington.

A. J. CADMAN,
Minister of Mines