

Mr. Guinness.

COAL-MINES ACT AMENDMENT.

ANALYSIS.

- | | |
|--|--|
| <p>Title.</p> <p>1. Short Title.</p> <p>2. Lien on coal-mine for wages and contract-moneys.</p> <p>3. Lien to have priority.</p> <p>4. Magistrate's Court to determine all questions relating to liens.</p> <p>5. Coal-mine may be sold to satisfy lien.</p> | <p>6. How proceeds of sale to be applied.</p> <p>7. Stipendiary Magistrate may execute transfer of sale.</p> <p>8. Mortgagee may satisfy liens.</p> <p>9. Moneys so expended to be added to mortgage.</p> <p>10. Exceptions.</p> <p>11. Regulations.</p> |
|--|--|

A BILL INTITULED

AN ACT to amend "The Coal-mines Act, 1891."

Title.

BE IT 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 Coal-mines Act Amendment Act, 1899."

Short Title.

2. Every person who is employed by or under the owner of a coal-mine to work thereon or therein, for wages or on contract, shall by force of this Act have a lien on such coal-mine, and on all plant, machinery, and property situated on or worked in connection therewith and belonging to the owner of such coal-mine, for wages and contract-moneys owing to him by reason of such employment, and such lien shall extend and operate in manner following, that is to say:—

Lien on coal-mine for wages and contract-moneys.

(1.) The lien shall extend to three months' wages in the case of a wages-man, and to one hundred pounds in the case of a contractor or sub-contractor.

20

(2.) Where the lien is in respect of wages owing by a contractor, it shall operate only to the extent of the amount owing under the contract to the contractor by the owner of the coal-mine.

25

(3.) Where the lien is in respect of wages owing by a sub-contractor, or in respect of contract-moneys owing to a sub-contractor, it shall operate only to the extent to which the amount owing by the contractor to the sub-contractor is also owing to the contractor by the owner of the coal-mine.

- (4.) All moneys paid under either of the *two last-preceding* subsections hereof by the owner of the coal-mine may by him be deducted from moneys owing by him to the contractor, and in the case of moneys paid under the *last-preceding* subsection hereof may by the contractor be deducted from moneys owing by him to the sub-contractor. 5
- (5.) As between wages-men and contractors, the lien of a wages-man shall have priority.
- (6.) As between contractors and sub-contractors, the lien of a sub-contractor shall have priority. 10
- (7.) The lien may be registered in the Magistrate's Court, constituted under "The Magistrate's Court Act, 1893," which is situated nearest to such coal-mine, by filing a memorial in writing in such Court setting forth the amount of wages or contract-moneys due to such wages-man or contractor or sub-contractor, and shall be void unless it is registered— 15
- (a.) In the case of a wages-man, within seven days after he ceases his employment, or the three months' wages become due, whichever event is the earlier; and 20
- (b.) In the case of a contractor or sub-contractor, within seven days after the contract or sub-contract is completed or otherwise determined, or the one hundred pounds become due, whichever event is the earlier. 25
- (8.) On the day on which the lien is registered the Clerk of the Court shall, by registered letter, post notice thereof in writing to the owner of the coal-mine to which the lien relates.
- (9.) As between wages-men, contractors, and sub-contractors, *inter se*, their respective liens shall have priority according to the date of registration; but as between lienees of the same class all registered liens shall rank equally and alike in respect of such portion of the amounts to which the liens relate as was earned during one and the same 35 period of time.

Lien to have priority.

3. A duly registered lien under the *last-preceding* section of this Act shall have priority over all other then existing or subsequently created encumbrances, liens, or interests whatsoever affecting the coal-mine to which such registered lien relates. 40

Magistrate's Court to determine all questions relating to liens.

4. The Magistrate's Court shall have jurisdiction to determine all questions and claims relating to such liens, including all questions and claims relating to the amounts payable under such liens, their order of priority, and the mode of satisfying and discharging the same. 45

Coal mine may be sold to satisfy lien

5. For the purpose of satisfying and discharging any such lien the Magistrate's Court may by order made on the application of the lienee cause the coal-mine plant, machinery, and property to which the lien relates to be sold by public auction, at such time and place, and on such terms and conditions, as the Magistrate's Court thinks fit. 50

How proceeds of sale to be applied.

6. The moneys produced by any such sale shall be applied, first, in or towards defraying the costs and expenses of the sale; secondly,

in or towards defraying the costs and expenses of the proceedings in which the order for sale was made; thirdly, in or towards satisfying and discharging, according to their respective priorities, all registered liens; and the surplus, if any, shall be payable to the person entitled thereto.

7. (1.) For the purpose of completing the title of the purchaser at any such sale, the Stipendiary Magistrate, in his official name and under the seal of his Court, shall, at the cost in all things of the purchaser, execute all such instruments of assignment, transfer or other assurance as are necessary; and every instrument so executed shall vest the purchased property in the purchaser, freed from all encumbrances whatsoever other than those (if any) subject to which the sale was expressed to be made.

Stipendiary Magistrate may execute transfer of sale.

(2.) The Stipendiary Magistrate shall incur no personal or other liability by reason of executing any such instrument.

8. Any mortgagee of the coal-mine plant, machinery, or property ordered to be sold as aforesaid may, at any time before the sale, apply to the Magistrate's Court for leave to pay into Court whatever sum is necessary in order to satisfy the liens with costs and expenses, and thereby avoid the necessity of the sale; and, upon the sum as fixed by the Magistrate's Court being paid into Court, the Magistrate's Court may by order stop the sale.

Mortgagee may satisfy liens.

9. The sum so paid into Court shall be applied in like manner as in the case of the proceeds of a sale, and all moneys (including costs and expenses) expended or incurred under this section by the mortgagee shall by force of this Act be deemed to be added to and to form part of the principal moneys owing under his mortgage, and shall be covered by the security thereof accordingly.

Moneys so expended to be added to mortgage.

10. Except in so far as is prescribed by regulations under this Act, neither "The Contractors' and Workmen's Lien Act, 1892," nor "The Workmen's Wages Act, 1893," shall apply to any such lien as aforesaid.

Exceptions.

11. The Governor in Council may from time to time make regulations prescribing the mode of registering and enforcing liens under this Act, and generally whatever else he thinks necessary for the purpose of giving effect to the provisions of this Act.

Regulations.