

Hon. Mr. MacGregor.

MINING.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend the Law relating to Gold-mining.

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 Mining Act, 1899," and it shall be read as part of "The Mining Act, 1898."

Short Title.

2. The expression, the "principal Act," means "The Mining Act, 1898."

Interpretation.

3. It shall not be necessary, and shall not be deemed to have been necessary from the commencement of the principal Act, for any applicant for a mining privilege, or for any license or certificate, to mark out the land affected by the application prior to making his application therefor; but so, nevertheless, that such applicant completes such marking-out, in the case of a race, within two months after the date of the filing of the application, and in any other case not less than ten days before the day appointed for the hearing: Provided, however, that no application for a race shall be finally dealt with until after the expiration of sixteen clear days from the completion of the marking-out of the ground: Provided also that this section shall not apply to any suit or any opposed application pending at the time of the passing of this Act.

Application may precede marking-out.

4. (1.) Every claim, whether granted before or after the coming into operation of the principal Act, shall, notwithstanding the provisions of any other Act or of the license or certificate for such claim, be deemed to have been granted subject to the reservations following, that is to say: that the Warden may in respect to such claim, and subject to such terms and conditions as to him may seem just, grant to any holder of a miner's right or other license from Her Majesty or her successors the right to construct on, over, or across

Claim to be deemed to be granted subject to reservations.

such claim such work as may, in the opinion of the Warden, be necessary for facilitating mining operations on any other claim.

(2.) Subject to the right of appeal, the Warden shall decide whether or not any application made pursuant to this section shall only be granted subject to the payment by the applicant of compensation, and if the Warden decides that such compensation shall be paid the amount thereof shall be assessed in the prescribed manner. 5

(3.) Any person to whom a grant shall be made pursuant to this section shall, in the exercise of his rights thereunder, do as little damage as possible to the claim on, or over, or across which such right is granted, and shall at all times exercise such rights not capriciously, but in a *bonâ fide* manner, for the sole purpose of facilitating mining operations. 10

(4.) The mere fact that the grant of any application made under this section would interfere with the working of the claim on, or over, or across which it is sought to construct the work in respect of which the application is made shall not deprive the Warden of jurisdiction to make such grant. 15

5. Section one hundred and sixty-four of the principal Act is hereby repealed, and the following provisions substituted therefor:— 20

“For the purpose of facilitating mining operations, the following special provisions shall apply in the case of every mining privilege: 25

“(1.) The Warden, on application in that behalf, may grant to any person the right to enter upon, occupy, and use any specified portion of the land comprised in any mining privilege for all or any of the following purposes:— 30

(a.) To cut and construct any channel or ditch in or through such land, and to use such channel or ditch for the purposes of obtaining ingress to or egress from the grantee's claim for mining operations in connection with any of the grantee's mining privileges, and for working such claim, or for any or all of those purposes, or for any similar purpose; 35

(b.) To cut, construct, maintain, and use upon, through, over, or under such land any race, tunnel, drive, or other mining work; 35

(c.) To convey through or over, or discharge upon, such land any tailings, *débris*, or waste waters resulting from mining operations, including therein any operations which may be authorised under this section; 40

(d.) Such other purposes as may be prescribed.

“(2.) Every application under this section shall be made and disposed of in the manner prescribed by section one hundred and thirty-six hereof. 45

“(3.) Every application, if granted, shall be granted on such terms and conditions as the Warden shall think fit, and so that one of such conditions may be that the grantee shall pay compensation for any damage done or which it is anticipated will be done by such grantee in acting under the grant, and so that in every case one of such conditions shall be that the grantee shall interfere as little as 50

he possibly can with the reasonable and lawful use of such mining privilege by the holder thereof, and with his lawful mining operations, and so that another of such conditions shall be that the grantee shall pay compensation for all damage done, or which it is anticipated will be done, to buildings, machinery, or mining works on such land by such grantee in acting under the grant.

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“ (4.) Any compensation to be paid by the grantee shall be assessed by the Warden either when granting the application, and in such case the amount of such compensation shall be paid by the grantee before he shall proceed to act in any way under his grant, or the Warden may defer such assessment until the work has been completed, and in such case he may require security to be given by the applicant to secure the payment of the amount of such assessment.”

6. Subsection five of section ninety-nine of the principal Act is hereby amended by the striking-out at the end thereof of the words, “and such determination shall be final and conclusive,” and by the
20 substitution therefor of the words following: “and the determination of the Warden and such assessors, or of the Warden and either of such assessors, shall be final and conclusive.”

Subsection (5) of section 99 of principal Act amended.

7. Section ninety-eight of the principal Act is hereby amended by adding at the end thereof the following words as subsection three,
25 namely: “The application may be filed either before or after the marking-out of the ground, and in case of the application being filed before such marking-out it shall be sufficient for the applicant to locate the ground by reference to the section and block and survey district of the land in which it is situated, or, in the case of a race,
30 through which it is intended to mark out the same: Provided, however, that such marking-out, in the case of a race, shall be completed within two months after the date of the filing of the application, and in any other case at least ten days before the day appointed for the hearing: Provided, also, that no application for a race shall be
35 finally dealt with until after the expiration of sixteen clear days from the completion of the marking-out.”

Section 98 of the principal Act amended.

8. Section two hundred and eighty-five of the principal Act is hereby amended by the addition thereto at the end of the first
40 paragraph of the following words: “and in such case the party appealing shall file in the office of the District Court, or where the Appellate Court is the Supreme Court, then in the office of the Registrar of that Court, a copy, certified under the hand of the Warden or of the Clerk of the Warden’s Court in which the case was heard, of the summons and statement of claim and counter-
45 claim, or of the application and objections thereto, as the case may be.”

Section 285 of the principal Act amended.

Secondly, that the mortgagor will forthwith insure, and, so long as any money remains owing on the security, will keep insured, all buildings and erections for the time being situate on the said land against loss or damage by fire in the name of the mortgagee, to their full insurable value, in some reputable insurance office to be approved by the mortgagee, and will duly and punctually pay all premiums and sums of money necessary for the purpose of keeping every such insurance on foot. And will, not later than the forenoon of the day on which any premium falls due, deliver or cause to be delivered the receipt therefor to the mortgagee, who shall also be entitled to the exclusive custody of all policies of insurance.

Thirdly, that the mortgagor will from time to time, so long as any money remains owing on the security, well and substantially repair, and keep in good and substantial repair and condition, all buildings or other improvements erected and made upon the said land: And, that the mortgagee may at all times be at liberty, by himself, his agents or servants, to enter upon the said land to view and inspect the said buildings and improvements.

Fourthly, that if the mortgagor fails or neglects to insure or keep insured the said buildings and erections as aforesaid, or to deliver or cause to be delivered any premium receipt as aforesaid, or to repair the said buildings and improvements, or to keep them in good and substantial repair and condition as aforesaid, then and in any such case, and as often as the same shall happen, it shall be lawful for but not obligatory on the mortgagee, at the cost and expense in all things of the mortgagor, to insure the said buildings, or any of them, in such sum as aforesaid or in any less sum, or to pay such premium, or to repair the said buildings and improvements and keep them in good and substantial repair and condition.

Fifthly, that in the event of the said buildings and erections or any of them being destroyed or damaged by fire, all moneys received by the mortgagee under any insurance in respect of such destruction or damage shall be applied, at his sole option, either in or towards rebuilding or repairing the buildings and erections so destroyed or damaged, or in or towards payment of the principal, interest, and other moneys for the time being covered by the security, notwithstanding that the same or any of them may not have accrued due under the terms of the memorandum of mortgage.

Sixthly, that all moneys expended by the mortgagee in and about effecting or keeping on foot any insurance as aforesaid, or in repairing or keeping in repair any of the said buildings and improvements as aforesaid, or in attempting to exercise or enforce any power, right, or remedy in the memorandum of mortgage contained or implied in favour of the mortgagee, shall be payable to him by the mortgagor on demand, and until paid shall be charged on the said land, together with interest at the rate agreed upon in the memorandum of mortgage, computed from the date or dates of such moneys being expended.

Seventhly, that the power of sale and incidental powers in that behalf conferred upon mortgagees by "The Land Transfer Act, 1885," or by "The Property Law Consolidation Act, 1883," as the case may be, shall be implied herein, with this modification: that they may be exercised without any notice or demand whatsoever if and whenever the mortgagor makes default for one calendar month in the full and punctual payment of any of the moneys secured by the memorandum of mortgage, in accordance with the respective covenants for payment thereof therein contained or implied, or if and whenever the mortgagor makes default in the faithful observance and performance of any other covenant or condition on his part therein contained or implied.

Eighthly, that if and whenever the mortgagor makes any such default as in the last-preceding covenant mentioned, it shall be lawful for the mortgagee to call up and compel payment of all principal, interest, and other moneys for the time being owing under the memorandum of mortgage, notwithstanding that the time or times therein appointed for the payment thereof respectively may not have arrived.