

might be held to cover the whole class of cases, which was evidently in the contemplation of the Legislature.

Note 2.—Supplementary generally to my Observations with respect to Miners' Rights.

It may be convenient here to enumerate the several sections of our Acts in which the operation of the miner's right is provided for. I would call especial attention to two of them. There is one of them the effect of which is obscure, and which suggests that there was some special emergency, probably in the Thames Gold Fields, in which the Legislature has already found it necessary to pass a sort of amnesty or curative Act, to cure the faults in title that might possibly have arisen from want of miners' rights, but have done it partially and obscurely. There is another, which might readily escape notice, but which ought to be borne in mind.

The sections making provision with regard to the miner's right are:—Act of 1866—Sections 4, 6, 7; section 8, now repealed by the Act of 1869, and section 4 of that Act substituted; section 97; sections 99, 100, not material here; and section 112. Act of 1867—Section 9, not material here. Act of 1869—Sections 4, 5, 9, 10, 11, 12, and 13, which relate to Native lands only. "The Mining Companies Limited Liability Amendment Act, 1869," section 10.

With regard to two of these sections adverted to above, I wish to observe—

First, as to section 5 of the Act of 1869. This seems to have grown out of some emergency arising on the Thames Gold Fields, and to have been intended to cure some faults, possible or actual, affecting the property of corporations or great companies, in consequence of any failure as to miners' rights occurring previous to the passing of the Act—and no doubt, being a remedial enactment, would, in the interpretation of it, be extended to all companies great and small, and be held to include ordinary partnerships, but it seems to have no application to properties held by a single miner's right; and properties of great value and permanency may be represented by single miner's rights—as quartz claims, extended alluvial claims, water races. The clause is, on the whole, very obscure. He recognizes however the principle, that if the miner's right is to enter into title, it will from time to time be found productive of great mischiefs to suffer it to operate on title for an unlimited time backwards, and the interference of the Legislature on this point will be called for more or less often. Possibly, if the Government comes to the conclusion, that as a matter of law the miner's right has hitherto in New Zealand entered into title, and that as a matter of policy it is desirable that it continue to be part of it hereafter, then they may likewise be of opinion, that instead of passing from time to time temporary and partial enactments like this, there ought to be one general enactment, that in tracing title it shall not be necessary to follow up the miner's right for more than some given period, of very moderate length, behind the time at which the question arises.

In Victoria, where they appear to act only on what answers to our 112th section, and where, consequently, the inquiry as to the holding of miners' rights can only comprise facts of a very recent and a very limited character, they had at one time to pass a curative amendment of a similar character to this section 5 of our Act of 1869; but they made the enactment general, extending to all mining properties, whether held by single miner's rights or by many, and not like ours partial, confined to the properties of companies and corporations. And it is also observable that, in providing this curative enactment, it was only thought necessary to cure all disabilities that up to that time might have arisen by reason of the section that answers to our 112th indicating, I should say, that that was the only section which created any such disabilities. The enactment to which I refer is the 8th section of the Victorian Gold Fields Amendment Act of 1860 (24th Victoria, No. 115).

The reading again of this 8th section of the Victorian Act, 1860, suggests to me that it seems desirable that some provision should be made with regard to persons taking mining property by operation of law, and who would be very likely not to be holders of miners' rights at the time when the property devolved on them as trustees in bankruptcy, and executors and administrators; and I would add, that it would appear that purchasers under executions should also be considered.

Secondly, I would briefly point attention to section 10 of "The Mining Companies Limited Liability Act Amendment Act, 1869." It provides that it shall not be necessary for any shareholder in any incorporated company to be the holder of a miner's right in respect of any of his shares. This enactment not being found in any of the Gold Fields Acts is apt to escape notice, and in the framing of a general enactment it might possibly be inadvertently repealed, and no similar provision substituted.

Dunedin, 6th July, 1871.

WILSON GRAY,
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