

Provided nevertheless as follows :—

(i.) It shall be sufficient if the total number of miners' rights so taken out and held is at no time less than the total number of persons for the time being so employed.

(ii.) The owners of such Native ceded land or a majority of them may, by memorandum in writing lodged in the Warden's Court, certify their consent that, for the purpose of determining the amount to be paid by the licensee, such land shall be deemed to be other than Native ceded land, and from and after the lodging of such memorandum the foregoing provisions as to rent and miners' rights shall cease to apply to such land, and in lieu thereof the same rent shall be payable as in the case of other than Native ceded land.

101. In every case where a claim comprises land over which any person possesses any validly created right to cut, remove, or float timber, the following special provisions shall apply :—

Special provisions
as to mining on
timber lands.

1838, No. 38, sec. 88

(a.) Such claim shall be deemed to be taken up and shall be held subject to the condition that the holder thereof, and all persons deriving title through him, will so carry on mining operations as not to prevent the reasonable exercise of any of the aforesaid rights.

(b.) If any question or dispute arises under the last preceding paragraph as to what is the reasonable exercise of the aforesaid rights, the Warden shall decide.

(c.) In deciding such question or dispute the Warden, if he deems it equitable so to do, may authorise the mining operations to be carried on in such manner and subject to such conditions as he prescribes, having regard to the special circumstances of the case and the nature of the aforesaid rights.

(d.) The Governor may from time to time make such regulations as he deems necessary for the purpose of giving effect to this section, and of enabling the mining and timber industries to co-exist on the same land.

102. (1.) When granting a license for a claim or other mining privilege, or at any time thereafter during the currency of the license, or, in the case of an ordinary alluvial claim held otherwise than under license, at any time whilst it is held, the Warden may impose on the licensee or holder such conditions as he thinks fit in order to prevent injury to the surface of the land comprised in the claim or other mining privilege, or to anything thereon, in any of the following cases, that is to say :—

Warden may impose
conditions to prevent
injury to surface of
land.

Ibid, sec. 89

(a.) If the land is in a borough ; or

(b.) If buildings are erected or likely to be erected on the land ;

or

(c.) If the land is *bona fide* used or is likely to be so used for a yard, garden, orchard, cultivated field, water-race, dam, burial-ground, or reserve.

(2.) Such conditions may include the condition that the licensee or holder will not, without the previous approval in writing of the Warden and consent in writing of the person in lawful occupation of the surface, carry on mining operations within such distance of the surface, as the Warden thinks fit to prescribe, such distance being not less than fifty