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MINING LAW

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THE BRITISH EMPIRE.

BY

CHARLES J. ALFORD, F.G.S., M.Inst.M.M.



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PREFACE.

IT is far from my intention to attempt the production of a treatise on mining law for the use and guidance of lawyers, which has been already well done by Mr Oswald Walmesley in his *Guide to the Mining Laws of the World*, a book from which I have gathered much valuable assistance in the compilation of the present volume. Still less would I undertake to make every mining man his own lawyer—he would indeed have a fool for a client; when legal questions of any importance arise in the conduct of mining affairs, it is time to put the matter in the hands of the Company's solicitor. But a *résumé* of the various systems and codes of mining law of the British possessions throughout the world, with some remarks on their characteristics, by a mining man of many years' experience, will doubtless be both interesting and instructive to those engaged in mining work, whether at home or abroad. To those who have the direction of the many large exploration companies now employed in seeking new channels for the employment of capital in mining work in new countries, I venture to hope that this little book may be especially useful, as indicating the conditions of tenure of mining property under the various laws. Some parts of it may also be helpful and suggestive to those into whose hands may be placed the task of framing the mining laws of new and unexplored lands, or of adapting older laws and usages to more modern requirements.

After reviewing the general principles of mining law and the widely divergent systems on which they are based, I propose to quote and discuss the various codes in practice in each of the principal mining countries of the British Empire, in as much detail as space and the information at my disposal will permit. The intricate and detailed provisions made in the legislation of some of the British self-governing colonies for the regulation of alluvial gold-mining, I shall but lightly touch upon, as of no great interest to European readers; whilst as much attention as possible will be given to the legislation bearing upon mining leases and properties of such importance as those in which mining joint-stock companies are more generally interested.

Criticisms and complaints, some just and some unjust, of the various mining laws are rife on every hand in all countries throughout the world, and will remain so until human nature has effected a radical change in itself: until all classes of the community—those who labour with their hands, those who labour with their brains, and also those who invest the necessary money capital in mining enterprise—can combine in understanding that each one section of this working community is as necessary as the other to the mutual well-being and general good: until that day dawns, the stupid antagonism of labour to capital, and the resulting arrogance of capital towards labour, will continue to clog the wheels of progress.

Much of the dissatisfaction so frequently expressed with regard to some of the modern codes of mining law, especially those of some of the British self-governing colonies, has, in my opinion, been caused by one of two fundamental mistakes—firstly, the hasty and ill-considered introduction of laws and regulations into a country for which they are not suited, copied from the usages of one of very different conditions; and, secondly, the retention of old laws and customs which may have been necessary in earlier times, but to which the changed conditions of a country progressing in order and civilisation no longer adapt themselves.

In the case of Great Britain, I have decided, for reasons given in the chapter on British mining law, to quote at some length the mining regulations for the control of metalliferous and coal mines; but in other cases I have confined my subject to mining law pure and simple, and more especially to that relating to the legal tenure of mining property in various parts of the Empire.

I have added a table of the London addresses of the agencies of the several self-governing colonies, and of other offices at which more detailed information regarding the conditions of mining industries can be obtained, in the hope that this may facilitate further research, when such may be necessary.

As the Acts and other legal matters are quotations, they are printed with all their defects of grammar and construction, which will account for the occasional difficulty that may occur in grasping their precise meaning.

For valuable assistance received in the compilation of this volume, I desire to record sincere thanks to my good friends, Messrs John Taylor & Sons, for help regarding the Indian mining laws; J. H. Collins, F.G.S., M.Inst.M.M., Great Britain; F. Danvers Power, F.G.S., M.Inst.M.M., New South Wales; A. T. Brown, M.Inst.M.M., Victoria; W. M'Lellan, M.Inst.M.M., New Zealand; E. P. Rathbone, M.Inst.M.M., Transvaal; Leonard Acutt, M.Inst.M.M., Natal; and, last but not least, to C. G. Warnford Lock, F.G.S., M.Inst.M.M., who has most kindly read and revised the text of the entire volume.

CHARLES J. ALFORD.

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