

MAINE STATE LEGISLATURE

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November 7, 1956

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To Paul A. MacDonald, Deputy Secretary of State
Re: Maine Mining Law, Chapter 409, Public Laws of 1955

We have previously received your memorandum of November 9, 1955, with reference to two questions involving the mining law. On November 18, 1955, we answered these questions. It has been pointed out to us that certain errors appear therein and, in order to correct such errors, we herewith submit the following opinion, specifically overruling the opinion given on November 18, 1955.

The first question was: "Can a corporation engaged in mineral exploration and mining legally acquire the right to mine which certain individuals may have obtained by making proper application to the Mining Bureau in accordance with Chapter 409 of the Public Laws of 1955?"

The question raises that of the right to transfer a located mining claim to a third party. It is our opinion that a mining claim may be legally sold or conveyed when the locator of said claim has reduced it so that he can be said to have the right of possession.

He has such right according to the statute, when he has carried out "such preliminary exploration as will in the judgment of the mining bureau furnish evidence upon which a license to mine may be granted."

It is held that a mining location perfected under the law is "property" in the highest sense of that term, which may be bought and sold or otherwise transferred and which passes by descent, is subject to taxation, may be sold on execution, or may be mortgaged. 28 C.J.S., Section 60, page 113.

Question 2 was: "Can an individual who has filed three claims in one unorganized township expend \$600 on one of the three claims or must at least \$200 be expended on each claim on labor or improvements of a mining nature during the preceding one-year period?"

It is held that where several claims are held and operated in common, they may be treated as an entity, and the aggregate assessment work for all the claims may be done on one of such claims, provided it is of benefit to all the claims and tends to develop all of them. See 58 C.J.S., Section 72-B-(2). It is further held that whether annual assessment work performed on one claim is beneficial to another claim is a question of fact in each case. It is generally considered that the claims in the group must be contiguous. "Uranium Prospecting", Cannon, "The Practical Lawyer", Vol. 2, No. 5. Therefore it will be necessary for the Mining Bureau to be furnished with evidence with regard to the assessment work, to determine whether expenditures on one claim might benefit all the others. The burden, it would appear, would be on the locator or mining operator.

Roger A. Putnam
Assistant Attorney General

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