

MAINE STATE LEGISLATURE

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December 4, 1964

Paul A. MacDonald, Secretary of State

State

George C. West, Deputy

Attorney General

Mining Licenses

FACTS:

A mining company has certain claims duly recorded. It has been issued a mining license to work the claims. It has now concluded an agreement with a second mining company by lease and assignment of certain property, mineral rights and option agreements. By the agreement the second mining company is the exclusive agent and representative of the licensee.

The licensee wishes to retain its license and allow the second company to operate the mine under its license.

QUESTION:

May a licensee assign its right, retain its license and allow another to mine its property?

ANSWER:

Yes.

OPINION:

The Maine Mining Law, Chapter 39-B, section 3, provides that anyone who records a claim or claims shall have the right of possession, shall own minerals or metals found therein and have the right to remove the same. It also provides:

"Such rights of possession and such ownership shall be alienable in the same manner as real estate."

Hence, the owner of a claim may sell it, lease it, assign it or dispose of it in any way he could any piece of real estate. Although we have not seen the actual agreement between the licensee and the second mining company, it is obvious that whatever type of agreement it may be denominated it would be of a type which could be made concerning real estate.

Section 5 provides that "any person or corporation with a recorded claim or contiguous claims" may make application for a license to mine. If there is no conflict with state use, such a license shall be granted.

We interpret this provision to mean that the record owner of the claim shall hold the license. As such he is responsible to the state for royalty payments and any other obligations placed upon a licensee.

So in this instance, it would appear proper to renew the license in the name of the licensee. The license may carry the notation that the actual mining may be performed by a designated agent or representative of the licensee.

George C. West
Deputy Attorney General

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