

# NEW MEXICO SCHOOL OF MINES

## STATE BUREAU OF MINES AND MINERAL RESOURCES

E. H. WELLS  
President and Director

BULLETIN NO. 6

# Mining and Mineral Laws of New Mexico

By

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## THE NEW MEXICO BUREAU OF MINES AND MINERAL RESOURCES

The New Mexico Bureau of Mines and Mineral Resources was established by the New Mexico legislature of 1927. Its chief object is to assist and encourage the development of the mineral resources of the state. The bureau was made a department of the New Mexico School of Mines, and its activities are directed by the board of regents of the school.

The law creating the State Bureau of Mines and Mineral Resources, which gives in detail its objects and duties, appears on pages 36 and 37.

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### PUBLICATIONS

- Bulletin No. 1. The Mineral Resources of New Mexico—Fayette A. Jones, 1915. (Out of print.)
- Bulletin No.2. Manganese in New Mexico—E. H. Wells, 1918. (Out of print.)
- Bulletin No. 3. Oil and Gas Possibilities of the Puertecito District, Socorro and Valencia Counties, New Mexico—E. H. Wells, 1919. (Out of print.)
- Bulletin No. 4. Fluorspar in New Mexico—W. D. Johnston, Jr., 1928. (Price 60 cents.)
- Bulletin No.5. Geologic Literature of New Mexico—T. P. Wootton, 1930. (Price 25 cents.)
- Bulletin No.6. Mining and Mineral Laws of New Mexico—C. H. Fowler, 1930. (Price 25 cents.)

Note. Bulletins 1, 2 and 3 were issued by the Mineral Resources Survey of the New Mexico School of Mines.

# MINING AND MINERAL LAWS OF NEW MEXICO

By CHARLES H. FOWLER<sup>1</sup>

## INTRODUCTION

### PURPOSE AND SCOPE OF BULLETIN

This bulletin is a compilation of the laws of New Mexico pertaining to mines and mining; to coal, oil, gas and other minerals; and to the leasing of mineral lands.

This work is not a treatise on the mining laws of New Mexico, and it does not attempt to enable the reader to proceed unaided in the legal phases of mining locations, mining practices, etc.

The chapters and section numbers are given herein as they appear in the New Mexico Statutes Annotated, 1929 Compilation, published by the W. H. Courtwright Publishing Company of Denver, Colorado. In this compilation the arrangement as to chapters is not consecutively carried out in the order in which they occur in the 1929 compilation, but it is believed to be the logical arrangement for a work of this character. Naturally, there are some overlaps as to subject matter due to legislative enactments pertaining to the same subjects but passed separately and at different sessions. The statutes are compiled and submitted without explanation or commentary except in a few instances where attention is called to some particular matter thought to be especially pertinent to the sections immediately preceding the comment.

### NEW MEXICO LANDS UNDER MINING LAWS

Perhaps no state in the Union has a more varied assortment of classes of land than New Mexico. To some of these classes the mining laws cannot apply; to others they have a modified application, and to others they apply in full force. For convenience these lands may be divided into three groups, namely: (1) Government lands, (2) state lands, and (3) privately owned lands. The general mining laws affect only mineral lands and have no direct application to agricultural or other classes of land returned as non-mineral further than the possibility that such lands might become subject to mining laws should mineral be discovered in them.

Without attempting to list or mention every possible class of land as to use and ownership, the three groups given above can be subdivided for the purpose of pointing out and exemplifying the application of mining laws, as follows:

<sup>1</sup>Attorney, Socorro, N. M., and lecturer on mining law. New Mexico School of Mines.



## I. Government lands.

1. Public domain.
2. Lands used for special or governmental purposes.
  - (a) Federal building sites, postoffices, etc.
  - (b) National parks.
  - (c) Military, hospital or other special purpose reservations.
  - (d) National monuments.
  - (e) Indian reservations.
  - (f) National forests.
  - (g) Lands withdrawn by executive order.

## H. State lands.

1. Public lands.
  - (a) School lands.
  - (b) Institutional lands.
  - (c) Other grant lands.
2. Lands used for special or governmental purposes.

## III. Privately owned lands.

1. Lands owned by individuals.
2. Railroad grant lands.
  - (a) Patented lands.
  - (b) Unpatented lands within the grant.
  - (c) Lieu lands.
3. Spanish and Mexican grant lands.
4. Lands in which mineral is reserved.

## RECORD OF OWNERSHIP

The record of ownership of a particular tract of land may be ascertained from the records of the district United States Land Office, the State Land Office and the county clerk's office in the county where the land lies. It may be necessary to examine successively the records of two or all of the offices. The district United States Land Offices at Santa Fe and Las Cruces will disclose whether the government is the owner, and, if it is not, then to whom patent to the land was issued. If they were once state lands, the State Land Office at Santa Fe will show the state's ownership, or the name of the person to whom the lands were sold. If title has passed to an individual, the records of the county clerk's office should be examined to ascertain the present ownership. Local abstractors and abstract companies usually can give valuable assistance in procuring such information and often may be able to answer such inquiries as to ownership from their own records within a small fraction of the time which would be required to obtain the answer otherwise.

## GOVERNMENT LANDS

## OUTLINE OF PROCEDURES TO GAIN TITLE TO MINERALS

Various procedures are specified in the laws in order to acquire the right to extract and own minerals found on government lands. "Veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar,

lead, tin, copper, or other valuable deposits" may be appropriated and possessed by means of locating as mining claims the lands in which they are found. The maximum dimensions of such mining claims are 600 by 1500 feet. They may be held by possessory title or the lands may be purchased and patent therefor obtained from the government in accordance with definite provisions of the law.

Lands bearing alluvial deposits of mineral, or other deposits of mineral not occurring in veins or in place, are subject to location and purchase as mining claims, this type being known as placer claims. Gold is the most common placer mineral. These claims should conform as closely as possible with the United States system of public land surveys. A placer claim cannot have an area of more than 20 acres for each individual claimant, or for each person of an association, and not more than 160 acres for any association of persons.

Title to mineral deposits, whether lode or placer, is acquired by location of the lands in which they are found as mining claims. Under the federal mining laws, excepting the leasing acts and cases of mining claims existing prior to May 10, 1872, and instances where the mineral is reserved upon sale of the surface, there seems to be no recognition of ownership of mineral deposits as apart from ownership of lands.

Deposits of coal, phosphate, sodium, oil, oil shale, gas and other related minerals on government lands may be acquired by leases from the government. The controlling laws and regulations differ depending on the mineral. In general, a prospecting permit is first issued for a short period during which the land may be explored for the mineral in question. Prospecting permits have an area of 2560 acres or less and should conform as closely as possible to the United States system of public-land surveys. If discovery of a valuable deposit of the mineral is made within the time of the permit a lease may be granted by the government for all or part of the area of the prospecting permit. A royalty on the mineral extracted and an acreage rental are levied by the government.

#### GOVERNMENT LAWS AND REGULATIONS PERTAINING TO MINERALS

The general mining laws of the United States relating to lode and placer deposits are found in Title XXXII, Chapter 6, of the United States Revised Statutes, Sections 2318 to 2346, as amended and supplemented by subsequent congressional acts. These laws may be obtained from the Department of the Interior, General Land Office, Washington, D. C., in Circular No. 430, which contains also the regulations pertaining to such laws. Regulations duly promulgated by the Secretary of the Interior in this regard have the binding force and effect of laws.

The Act of Congress of February 25, 1920 (41 Stat. L. 4.37), known as the Federal Leasing Act, as supplemented and amended, is controlling with reference to coal, phosphates, sodium, oil, gas, and oil shale found on the public domain. Exploration for and leasing of potash deposits are governed by the provisions of the act of October 2, 1917 (40 Stat. L. 297). From time to time the regulations have been and may be amended or supplemented or revoked. Circulars giving the laws and regulations

dealing with these minerals and advice regarding subsequent changes can be obtained from the General Land Office.

#### RELATIONSHIP OF FEDERAL AND STATE MINERAL LAWS

It must be borne in mind that the United States statutes are controlling with reference to the mineral lands of the public domain and to minerals reserved to the United States, and that state legislation, as to such lands or mineral, is proper only insofar as it supplements the federal laws and is not in conflict therewith. However, state laws must be complied with where they merely supplement the federal laws and are not in conflict with them, and in such cases the provisions of both federal and state laws must be given due regard.

#### LOCATION OF MINING CLAIMS

In order to locate a claim on unappropriated government land the locator must substantially comply with all the requirements of the federal laws, the state laws and district regulations, if any, with reference to location or marking out mining claims. The federal mining laws, with the regulations, are set forth in Circular No. 430 above referred to. The state laws are shown in this compilation. Local or district regulations, where they exist, will be found recorded in the county clerk's office in the county where the land lies or, in rare instances, with the recorder of the mining' district. The writer knows of no mining district in New Mexico which has a recorder or special rules governing locations therein at the present time, but the prospector or locator may ascertain by inquiry whether or not the particular district in which he operates has its local rules and officers.

In some instances state laws require more than the federal laws, but also the latter sometimes provide that where certain acts are to be done under state laws they shall be done in a specified way. In such cases both federal and state requirements must be fully met. To illustrate:

The federal statute says that the locator (1) must make discovery, and (2) must distinctly mark the claim upon the ground so that its boundaries may be readily traced. The federal laws do not require that record be made, but they provide that wherever a record is required by the state laws or local rules it must contain (a) the name of the locator; (b) the date of the location; (c) such a description of the claim, by reference to some natural object or permanent monument as will identify the same. A discovery shaft or similar working of that nature is not expressly required by the federal laws as an act of location.

The state laws do not expressly require a discovery as a prerequisite to location although it would seem that this is pre-supposed. They require that (1) the location shall be marked on the ground, as in the federal requirements; (2) a notice of location shall be posted in some conspicuous place upon the claim; (3) a copy of such notice shall be recorded with the county clerk within three months; (4) a discovery shaft, or other discovery work provided for, shall be done within three months from the date of location. The notice as posted and recorded must contain (a) the name of the locator, (b) his intention to locate

the mining claim, and (c) a description of the claim substantially as provided in the federal statute. It will be observed that the state law does not specify that such notice must contain the date of location but as the federal statute says every record required by state laws must contain such data, this item also becomes an essential part of the notice which must be recorded in this state. So in order to locate a lode mining claim in New Mexico these acts are essential: (1) To make a valid discovery of mineral within the limits of the claim; (2) to distinctly mark the location on the ground so that its boundaries can be readily traced, setting up monuments or posts as provided in Section 88-104, page 24, in the following compilation; (3) to post a notice in some conspicuous place on the ground, containing the name of the locator, his intention to locate the mining claim, the date of location, and a description of the claim by reference to some natural object or a permanent monument sufficient to identify the claim; (4) to record a copy of such notice with the county clerk within three months; (5) to sink a discovery shaft or do other discovery work as provided in Section 88-105, page 24. This illustration deals with lode claims and the reader will note that it is provided with regard to placer claims that the locator must have a bona fide discovery of mineral before the notice is recorded and the notice must contain also the purpose and kind of material for which the claim is located and the marking must be in compliance with section 88-116. Location notice blanks can be obtained at most state newspaper and printing offices.

#### UNUSUAL FEATURES OF AMERICAN MINING LAW

The difference in Principles governing homestead entry and those pertaining to location of mining claims is pronounced and the procedure to obtain patent should not be confused in the two cases. Homestead laws are made with the object of enabling citizens to acquire homes, and to that end the government has made the procedure very simple. With regard to application for patent the steps are plainly indicated and consist in little more than filling out of a few forms before a commissioner, the publication of a simple notice and the furnishing of a few affidavits. Often the entryman himself attends to the proceedings, perhaps with the aid of a few suggestions from the commissioner.

With mineral lands the scenes are changed. Under a policy contrary to that of most nations, and which grew out of circumstances unique in world history, these lands are given by the government out of its bounty to the discoverer of mineral who will take them upon the conditions prescribed. The American mining law has been called a law unto itself. In some ways it actually runs counter to the rules of ordinary real property law. The mineral claimant is not a home builder as the homesteader is, but rather he is, to some extent, a speculator turning to his own account that which the government has offered in gratuity. He cannot do less than comply with the conditions on which the gift is offered. Comparatively these conditions are few and easy but whenever he makes his application for patent, which is the confirmation of the gift, no intentment favors him and he must show that he has fulfilled his obligations

and is entitled thereby to take that which he asks for. Far from the simple method in cases of homestead entry, the procedure for patent to mineral lands is complicated and exacting. Even in a simple case no less than a dozen separate steps must be taken, each with its own set of accurately prepared papers, and the field is unlimited where complications may arise. These matters are tasks for trained assistants.

#### PUBLIC DOMAIN

The term "public domain" is used to designate those lands which are held by the United States or a state as subject to sale or disposal under general laws and which are not reserved for any special government or public purposes. By common usage in this state the term is applied almost exclusively to government lands, and as used in this introduction it is so intended.

Government lands not used or reserved for special or governmental purposes are in general open to location, appropriation, and purchase under the general mining laws and to prospecting and lease under the federal leasing acts.

#### GOVERNMENT LANDS USED FOR SPECIAL OR GOVERNMENTAL PURPOSES

As a rule, government lands used or reserved for special or governmental purposes are not open to appropriation, purchase and lease under the general mining laws and the federal leasing act. The national forests are an exception to this rule, inasmuch as they were specifically made subject to such laws by Act of Congress, June 4, 1897 (30 Stat. L. 34).

Indian reservations and reservations for special purposes, such as for military posts, hospitals and the like, in general may not be entered nor located upon or appropriated under the mining laws so long as their status is maintained. Whenever the reservation is abandoned such lands become subject to the mining and leasing laws and open to location.

The President is empowered in certain cases to withdraw lands of the public domain from appropriation and entry. The naval oil reserves, for example, the famous Teapot Dome, are of this character. Such lands are withdrawn by executive order and may not be taken up under the mining laws or the general mineral leasing acts so long as such order stands unrevoked. When the order is revoked the lands are restored to the public domain and become open to appropriation, purchase and lease.

#### INDIAN LANDS

While the rule as to Indian reservations is as above stated, from time to time Congress has enacted laws under which such lands may be leased for mining purposes. By the act of June 30, 1919 (41 Stat. L. 4), the Secretary of the Interior is authorized to lease unallotted lands of Indian reservations in certain states, including New Mexico, for mining for "gold, silver, copper and other metalliferous minerals," and he is empowered to declare such lands open to exploration for discovery of deposits of such minerals. After such declaration, mining claims may be located on the lands in the same manner as on the public domain but duplicate copies of the location notice must be filed with the superintendent-

ent of the reservation within sixty days from the date of location. Thereafter the locator has a preference right to apply for a lease to the lands of his claim within one year from the date of location, but if he fails to apply for lease within that time he forfeits all right to the claim. The application for lease may be filed with the superintendent for transmission to the Secretary of the Interior. The leases, when granted, are for twenty years with preferential rights of renewal for successive periods of ten years. The conditions are as stipulated by the Secretary, within the limits fixed by statute. By the act of March 3, 1921 (Fed. Stat. Ann. 2nd, 1921 Supp. 111), said act of June 30, 1919, was amended by extending the term "metalliferous" to include certain minerals not generally comprehended within it.

Also, the Secretary of the Interior is empowered, with the consent of the Indian council, to lease at public auction, for oil and gas mining purposes, unallotted lands on Indian reservations, (except certain lands with which we, of New Mexico, are not concerned). These leases are for a period of not to exceed ten years and as long thereafter as oil or gas is produced in paying quantities. (Act of May 29, 1924, 43 Stat. L. 244).

In the absence of specific provisions by Congress or declarations by the Secretary opening the lands to exploration, Indian reservations may not be invaded by prospectors and a claim located thereon is initiated in trespass and is void.

Information concerning the procedure to obtain leases on Indian lands may be had from the Department of the Interior, Washington, D. C.

## STATE LANDS

### GENERAL FEATURES

The term "public lands" may be applied to either government or state lands but locally by common usage it is generally applied only to lands owned by the state and as synonymous to the term "state lands"; that is to say, the open and unappropriated common lands belonging to the state. The term is so used in the statutes compiled in this volume and that is the meaning of it as used in this introduction.

These public lands were granted to the state by the government and are designated, according to the purpose for which they were granted, as school lands, institutional lands and other special grant lands. They are administered by the State Land Office of which the Commissioner of Public Lands is the head. Insofar as the state's title and interest therein is concerned, the state laws and the regulations of the State Land Office made thereunder are controlling. The question of when the state does and does not acquire mineral lands under these grants from the government is an involved one and a discussion of it would carry this introduction far beyond its proper scope. Perhaps it would not be well here to go further than to make the generalization that where particular lands have been granted to the state and the same have been surveyed, and the survey has been approved and the lands listed in the General Land Office as belonging to the state, before the mineral character thereof was known,



they belong to the state absolutely, and as to such lands the state mining laws apply exclusively.

State lands known to contain valuable minerals are not subject to sale but may be leased by the Commissioner of Public Lands for the development, mining and production of the minerals. Leases of state lands for grazing or agricultural purposes, reserve to the state the mineral deposits in the lands, with the right to grant leases thereon and to use or grant the use of such of the surface as is necessary in operations under such mineral leases. Sales of state lands are made with reservation or exception of the mineral deposits therein and with reservation of the right to use the surface necessary in the development and exploitation of such minerals.

Mineral leases of state lands, or mineral deposits owned by the state, are executed by the Commissioner of Public Lands on behalf of the state and contain such provisions and conditions as he may require, except that certain provisions, terms and conditions must be included and be within the scope fixed therefor by statute. The leases vary as to terms and provisions depending on the minerals covered by them and the conditions of their letting. The Commissioner has authority to make reasonable regulations concerning procedure in taking, transferring and holding leases and governing operations thereunder, and these are binding upon the lessee.

In the case of coal lands the Commissioner may grant a permit to prospect areas not less than 40 acres nor more than 640 acres for a period of not more than one year. At or before the end of the period, if he has developed coal and on his giving bond to comply with the provisions of the lease, the permittee may be granted a lease to work the lands for coal. The minimum rental and royalty is fixed by law, and the term may not exceed five years but a preferential renewal right is given to the lessee. Such improvements as can be removed without injury to the lands may be taken away at the end of the term. The statute also provides for the acquiring of other lands whenever necessary in the operation of the mine.

New Mexico has a comprehensive oil and gas leasing act. Such leases are made for a term of five years and as long thereafter as oil or gas in paying quantities is produced from the leased lands. A fixed royalty of one-eighth of the oil and gas "produced, saved and marketed" is provided and an annual rental of not less than five cents per acre, but to be not less than \$100.00 for the first year, is required. The lease is granted only on application in writing, under oath, which must be accompanied by the first year's rental and the amount of bonus, if any, offered by the applicant. When an application is made the amount offered becomes the minimum at which the lands included therein may be leased. An appraisal of the lands may be required and in such case the lease may not issue for less than the appraised value.

Certain "restricted districts" have been created in parts of the state deemed especially favorable for oil and gas development. Lands in these districts may not be leased for oil and gas except upon competitive bidding by sealed bids or at public auction. The Commissioner is empowered to

extend the limits of such restricted districts, and to create new districts, from time to time when the interests of the state require it.

"Lodes, metals or mineral deposits" on state lands may be leased by the Commissioner but the manner in which the lessee initiates his right to acquire a lease strongly shows the influence of the laws governing mining on the public domain. The prospector is allowed to locate his claim on state land in the same manner that he would locate a mining claim on the public domain except that he must also file in the State Land Office a copy of the location notice. The location must be a rectangular parallelogram not more than 1500 feet in length by not more than 600 feet in width. It must be surveyed before a lease thereon will be granted. On the filing of notice of location in the land office the Commissioner issues a permit granting the prospector the exclusive right to explore said lands for minerals for a period of ninety days. If, by the end of that period, the locator has sunk a discovery shaft or done other discovery work on the lands, to the extent required by statute, and has discovered "ore" in rock in place, he may apply for and take a lease granting him the right to mine and extract ores from said location for a term of not exceeding five years. The lease provides a yearly rental of \$25.00 and, in addition, a royalty of two per cent of "the cash returns from smelter, mill or other reduction process. . . less transportation and smelting or reduction charges;" except, that a royalty of five per cent of the gross proceeds is exacted if the lease is for ore deposits of precious stones or semi-precious stones in rock in place.

Saline lands, lands valuable for shales or clays, and lands having deposits of potassium, sodium, phosphorous and other minerals of similar occurrence, are subject to lease by the Commissioner upon such terms and conditions as he deems for the best interest of the state if within the limits fixed by and unless repugnant to law.

All state leases are subject to forfeiture and cancellation for non-compliance with their terms and the laws and regulations under which they are granted. They are generally issued for a fixed period of years with preferential renewal privilege to the lessee and express the right of the Commissioner to inspect the workings on the lands and the records of the operator relating thereto whenever such inspection is deemed advisable. The rules and regulations in force and additional pertinent information concerning procedure to obtain a lease for mineral deposits of any kind in state lands may be had from the State Land Office, Santa Fe, New Mexico.

State lands which are used for special or governmental purposes are not subject to appropriation under the mining laws of the state.

## PRIVATELY OWNED LANDS

### LANDS OWNED BY INDIVIDUALS

Privately owned lands generally are not affected by the mining laws. Operations on them are carried on by agreement and contract with the owner. But in this regard see the provisions of Section 88-701, page 47, in the following compilation. However, there may be a severance in

ownership of the surface and the minerals in the land. Homestead patents issued by the government under the acts of Congress prior to 1910 were supposed to cover only agricultural lands, but of course this meant only land not known at the time of patent to be mineral land. Patents are now granted by the United States, under what are commonly called the Enlarged Homestead Act and the Stockraising Homestead Act, which reserve to the government the minerals and the right to enter and work the same. As to such lands the mining laws pertaining to locating and patenting claims do not apply as fully as in the case of lands of the public domain but provision is made under which the mineral reserved to the government may be located and worked by persons other than the surface owner, and so much of the surface may be used as is necessary in working the mines.

#### RAILROAD LANDS

Railroad lands fall under the general title of privately owned lands but they require special consideration. The government made large grants of land to certain railroads to aid in and as an inducement to the construction of their lines. These grant lands passed to the railroad upon the doing of certain specified acts and fixing the definite location of its road, thus establishing definite location of the lands, and with the issuance of patent. Known mineral lands were excluded from all such grants. Unpatented lands within the limits of the grant to the railroad may be taken up under the general mining laws if they are found to be mineral, the proceedings being substantially the same as in location upon open and unappropriated public domain. If patent has issued to the company covering lands which at the time of patent were known to be mineral in character there is yet a possibility, under some conditions, for a locator to acquire rights of possession under the mining laws. But the issuance of Patent to the railroad indicates the determination by the government of the non-mineral character of the lands, and if, in fact, they were not known to be mineral lands at that time a subsequent discovery of mineral therein will not diminish the estate of the railroad in them.

Whenever lands within the limits of the grant to the railroad are excluded from the grant because they are found to be mineral in character or because prior rights of ownership thereto have been initiated under homestead laws, or otherwise, the railroad is entitled to take up an equal acreage of agricultural lands of the public domain elsewhere in the state. Lands so selected by the railroad, which are termed "lieu lands," must not be of known mineral character. These lieu lands are subject to the conditions applying to the original or primary grant lands and location of mining claims may be made thereon under the same conditions and in the same manner as on the primary grant lands.

#### SPANISH AND MEXICAN LAND GRANTS

Spanish and Mexican land grants present questions peculiar to themselves. The original grants from Spain and Mexico did not pass title to the mineral unless they contained express provisions to that effect. Under its treaties with those nations the United States must recognize land titles

subsisting in the territories acquired from them. It is not obliged to go any further than this nor to recognize any title or estate not inhering in the original grant. It follows, then, that mere confirmation of a grant made by Spain or Mexico does not necessarily carry with it the mineral which was reserved to the grantor. Our government, of course, can relinquish all claim to the lands, including the mineral, if it so desires and where patents have issued to such grantees from the government it is probable that this is the effect. Where the titles have been confirmed only, as by decrees of the Court of Private Land Claims, it is a disputed question whether the grantees have acquired the surface rights only or the ownership of the minerals within the boundaries of the grant as well. Considerable authority is to the effect that they own the surface and no more. Some of the land grants in this state are of the kind last referred to. If the grant does not carry the mineral rights with it, it seems that there is no way by which a prospector may enter upon these grant lands and explore for mineral, or locate a claim for it even if mineral be there found. Perhaps Congress can provide a way by which such mineral may be located and mined, but as yet it has not done so. However, if the surface owners, or their lessees or assignees, elect to mine and remove the mineral, none but the government can complain. Until action is taken by it to restrain or control such mining, the surface owner, no doubt, will be secure in his operation, and, in view of the liberal attitude taken by the government with reference to its mineral lands, he may be justified in considering this assurance enough to protect him in the venture.

# CONSTITUTION OF THE STATE OF NEW MEXICO

## ARTICLE XVII.

### MINES AND MINING

Inspector of Mines.

Section 1. There shall be an inspector of mines, who shall be appointed by the governor, by and with the advise and consent of the senate, for a term of four years, and whose duties and salary shall be as prescribed by law.

Mining regulations - Employment of children prohibited.

Section 2. The legislature shall enact laws requiring the proper ventilation of mines, the construction and maintenance of escapement shafts or slopes, and the adoption and use of appliances necessary to protect the health and secure the safety of employees therein. No children under the age of fourteen years shall be employed in mines.

## ARTICLE XXII.

### SCHEDULE

Federal mining inspection laws continued in force.

Section 3. Until otherwise provided by law, the act of congress, entitled, "An act for the protection of the lives of miners," approved March third, eighteen hundred and ninety-one, and all acts amendatory thereof, shall be and remain in force in this state to the same extent that they have been in force in the Territory of New Mexico; the words "Governor of the State," are hereby substituted for the words "Governor of such organized territory," and for the words "Secretary of the Interior" wherever the same appear in said acts; and the chief mine inspector for the Territory of New Mexico, appointed by the President of the United States, is hereby authorized to perform the duties prescribed by said acts until superceded by the "inspector of mines" appointed by the governor, as elsewhere provided by the constitution, and he shall receive the same compensation from the state as he received from the United States.

## ARTICLE XXIV.

### LEASES ON STATE LANDS.

Contracts for the development and production of minerals on state lands.

Leases and other contracts, reserving a royalty to the state, for the development and production of any and all minerals on lands granted or confirmed to the State of New Mexico by the Act of Congress of June 20, 1910, entitled "An act to enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an

equal footing with the original states," may be made under such provisions relating to the necessity or requirement for or the mode and manner of appraisement, advertisement and competitive bidding, and containing such terms and provisions, as may be provided by Act of the Legislature; the rentals, royalties and other proceeds therefrom to be applied and conserved in accordance with the provisions of said Act of Congress for the support or in the aid of the common schools, or for the attainment of the respective purposes for which the several grants were made.



# NEW MEXICO STATUTES (ANNOTATED)

## 1929 COMPILATION

### CHAPTER 88

#### MINES

##### Article

1. Location - Annual Labor - Abandonment, Sections 88-101 to 88-118.
2. Actions - Contests - Possession, Sections 88-201 to 88-213.
3. Records of Mills and Smelters, Sections 88-301 to 88-305.
4. Rights of Way, Sections 88-401 to 88-409.
5. Bureau of Mines and Mineral Resources, Sections 88-501 to 88-506.
6. Coal Mines, Sections 88-601 to 88-626.
7. Miscellaneous, Sections 88-701 to 88-709.

#### ARTICLE 1. LOCATION - ANNUAL LABOR - ABANDONMENT

##### Section

- 88-101. Location - Marking - Notice - Recording.  
88-102. Id. - Recording - Fees.  
88-103. Location - Discovery shaft.  
88-104. Id. - Marking boundaries.  
88-105. Relocation - Discovery shaft.  
88-106. Amended location notice.  
88-107. Removing location notice or monument - Penalty.  
88-108. Id.  
88-109. Annual labor - Lien holder may perform.  
88-110. Id. - Obstruction.  
88-111. Assessment work on claim in litigation - How done.  
88-112. Assessment work on claim in litigation - Effect.  
88-113. Proof of labor.  
88-114. Abandonment.  
88-115. Placer claims - How located.  
88-116. Id. - Location notice - Corner posts.  
88-117. Id. - Location notice - Recording - Discovery - Prospecting for oil and gas.  
88-118. Id. - Size.

88-101. Location-Marking-Notice-Recording. Any person or persons desiring to locate a mining claim upon a vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposit, must distinctly mark the location on the ground so that its boundaries may be readily traced, and post in some conspicuous place on such location, a notice in writing stating thereon the name or names of the locator or locators, his or their intention to locate the mining claim, giving a description thereof by reference to some natural object or permanent monument as will identify the claims; and also within three months after posting such notice, cause to be recorded a copy thereof in the office of the clerk of the county in which the notice is posted. And Provided, No other record of such notice shall be necessary. (L. '76, Ch. 38, §1; C. L. '97, §2286; Code '15, §3445.

88-102. Id.-Recording-Fees. In order to carry out the intent of the preceding section, it is hereby made the duty of the county clerk of

the several counties of this State, and they are hereby required to provide at the expense of their respective counties such book or books as may be necessary and suitable in which to enter the record hereinbefore provided for. The fees for recording such notices shall be ten cents for every one hundred words. (L. '76, Ch. 38, §2; C. L. '97, §2287; Code '15, §3446.

88-103. Location—Discovery shaft. That the locator or locators of any mining claim, located after this act shall take effect, shall, within ninety days from the date of taking possession of same, sink a discovery shaft upon such claim, to a depth of at least ten feet from the lowest part of the rim of such shaft at the surface, exposing mineral in place, or shall drive a tunnel, adit, or open cut upon such claim, to at least ten feet below the surface, exposing mineral in place. (L. '89, Ch. 25, §1; C. L. '97, §2298; Code '15, §3447.

88-104. Id.—Marking boundaries. The surface boundaries of mining claims hereafter located shall be marked by four substantial posts or monuments, one at each corner of such claim, so as to distinctly mark the claim on the ground, so that its boundaries can be readily traced, and shall otherwise conform to section 3445 (88-101). (L. '99, Ch. 57, §1; Code '15, §3448.

Note. As to placer claims see §88-116, Page 27.

88-105. Relocation—Discovery shaft. The relocation of any mining ground, which is subject to relocation, shall be made in the same way as an original location is required by law to be made, except the relocater may either sink a new shaft upon the ground relocated to the depth of at least ten feet from the lowest part of the rim of such shaft at the surface, exposing mineral in place, or drive a new tunnel, adit, or open cut upon such ground, at least ten feet below the surface, exposing mineral in place, or the relocater may sink the original discovery shaft ten feet deeper than it is at the time of relocation, or drive the original tunnel, adit, or open cut upon such claim, ten feet further. (L. '89, Ch. 25, §3; C. L. '97, §2300; Code '15, §3449.

88-106. Amended location notice. If at any time the owner of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that the original notice of location is defective, erroneous or the requirement of law has not been complied with before filing; or shall be desirous of changing his surface boundaries or to take in any part of an overlapping claim which has been abandoned, such owner may file in the office where notices of location are by law required to be filed, an amended or additional notice of location, subject to the provisions of this article. Provided, That such additional or amended notice of location does not interfere with the existing right of others at the time of filing such notice; and no such amended or additional location, or record thereof, shall preclude the claimant or his assigns from proving any such title as he or they may have held under the previous location. (L. '89, Ch. 25, §4; C. L. '97, §2301; Code '15, §3450.

88-107. Removing location notice or monument—Penalty. Any person who shall take down, remove, alter or destroy any stake, post, monument or notice of location upon any mining claim without the consent of the owner or owners thereof, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. (L. '89, Ch. 25, §5; C. L. '97, §2302; Code '15, §3451.

88-108. Id. Any person or persons, or the manager, officer, agent or employee of any person, firm, corporation or association, who shall in any manner alter, deface or change the location notice of any mining claim in this State, located under the laws of the United States and of this State, or *any* local regulations in force in the district wherein such claim is situated, thereby in any manner affecting the rights of any person, firm or corporation, to such claim or location, or the land covered thereby, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be fined in a sum not less than one hundred dollars, nor more than five hundred dollars, or imprisoned in the county jail for not less than sixty days, nor more than one year, or by both such fine and imprisonment, in the discretion of the court trying the case. Nothing herein contained shall affect the rights of such locator or locators, and his or their assigns, to correct errors in such notice and file amended location notices as provided in section 88106, and the laws of the United States: Provided, Such change shall not affect or damage the date of such location notice, or affect the rights of any other person. (L. '97, Ch. 58, §3; C. L. '97, §2311; Code '15, §3452.

88-109. Annual labor—Lien holder may perform. When the owner or owners of any mining claim or claims now located or which may hereafter be located, upon which there shall exist any mortgage, miner's or mechanic's lien, or other encumbrances of any kind which may be hereafter made or incurred, shall refuse, neglect or fail, up to the first day of December of any year, to perform thereon the annual labor or make thereon the annual expenditure required by law to be made in order to prevent the same from becoming open to relocation, in such case the holder or owner of such mortgage, lien or encumbrance, may, upon the first day of December of such year or any other time thereafter, before any such mining claim or claims shall have been relocated, enter with his or their workmen and employees upon the same and perform, or cause to be performed, the one hundred dollars' worth of labor or make the one hundred dollars' worth of improvements upon such claim or claims as by law required to be done or made each year in order to prevent such claim or claims from becoming open to relocation; that such work shall be done and improvements made in a workmanlike manner; that for the purpose of performing or causing to be performed such labor and improvements, the holder or holders of such mortgage, miner's or mechanic's lien, or other encumbrance, shall be considered the agent or the agents of the owner or owners of such mining claim or claims; that

the owner or owners of such mining claim or claims, or any other person or persons, shall not in any manner prevent, obstruct, hinder or delay the performance of any labor or the making of such improvements and may be restrained from so doing by injunction; that upon the completion of the one hundred dollars' worth of labor or improvements by the holder or holders of any mortgage, miner's or mechanic's lien or other encumbrance as aforesaid, upon any mining claim, as herein provided, all sum or sums of money expended by him or them shall be and become a lien upon the said mining claim or claims and from the date of the completion of the same, draw the same rate of interest as the principal sum of such mortgage, miner's or mechanic's lien, or other encumbrance, and may be foreclosed according to law. (L. '89, Ch. 25, §7; C. L. '97, §2304; Code '15, §3453.

88-110. Id.—Obstructing. Any person or persons who shall prevent, obstruct, hinder or delay the performance of the labor or the making of the improvements mentioned in the last preceding section, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred dollars or over five hundred dollars, or by imprisonment for a period not less than six months, nor more than one year, or by both fine and imprisonment. (L. '89, Ch. 25, §8; C. L. '97, §2305; Code '15, §3454.

88-111. Assessment work on claim in litigation—How done. Hereafter in any suit or action pending in any of the courts of this State, involving the right to the possession or title of any lode or placer mining claim located under the mining laws, and upon which it is necessary to do the annual assessment work to prevent the same from becoming forfeited and subject to relocation, the party or parties to any such suit out of possession, upon petition to the court in which suit or action is pending, showing that such annual assessment work has not been done on or before the first day of November in the year during which such work is required to be done, shall be entitled to an order as of course in such suit or action, permitting such party or parties to enter in and upon such mine or mining claims, with their agents and laborers, and to do and perform such annual assessment work to prevent the said mining claim or claims from becoming subject to relocation: Provided, That in the doing of such work, no ore shall be removed from the boundaries of such mining claim. (L. '05, Ch. 23, §1; Code '15, §3455.

88-112. Assessment work on claim in litigation—Effect. Upon the doing of any assessment work, as provided in section 3455, the said mining claim or claims shall not be subject to relocation for failure to do the annual assessment work, as against any of the parties to such suit or action. (L. '05, Ch. 83, §2; Code '15, §3456.

88-113. Proof of labor. The owner or owners of any unpatented mining claim in this State, located under the laws of the United States and of this State, shall within sixty days from and after the time within which the assessment work required by law to be done upon such claim should have been done and performed, cause to be filed with the clerk of

the county in which such mining claim is situated, an affidavit setting forth the time when such work was done, and the amount, character and actual cost thereof, together with the name or names of the person or persons who performed such work; and such affidavit, when made and filed as herein provided, shall be prima facie evidence of the facts therein stated. The failure to make and file such affidavit as herein provided shall, in any contest, suit or proceedings touching the title to such claim, throw the burden of proof upon the owner or owners of such claim to show that such work has been done according to law. (L. '97, Ch. 58, §8, C. L. '97 §2315; Code '15, §3457.

88-114. Abandonment. In addition to the provision of law now in force in respect to the abandonment of mining claims, they may be abandoned in the following manner: The owner or owners of any mining claim, wishing to abandon the same, may sign and acknowledge in the same manner provided by law for the acknowledgment of deeds, and file for record in the office of the county clerk, a certificate describing the same, stating when and by whom located, the name of the claim, the book and page where the notice of location of such claim is recorded; that he or they give up and abandon such claim, and that the same is open and subject to relocation. Upon the filing of such certificate, the mining claim therein described shall be considered abandoned and open to relocation as if the same had never been located, and the owner or owners thereof forever estopped from claiming any right or interest therein under the location mentioned in said certificate: Provided, That this provision for abandonment shall not apply to any claim or location, upon which any mortgage, lien or other encumbrance exists. (L. '89, Ch. 25, §6; C. L. '97, §2303; Code '15, §3458.

88-115. Placer claims—How located. All public lands in the state of New Mexico chiefly valuable for the deposits of gypsum, fire-clay, petroleum oil, natural gas, alluvial deposits of gold, and all other material recognized by the laws of the United States as placer material may be located as placer mining claims as hereinafter provided. (L. '09, Ch. 65, §1; Code '15, §3459.

88-116. Id.—Location notice—Corner posts. The locator or locators shall, at the time of making location of any placer mining claim, cause a notice of such location to be placed at a designated corner of the claim so located, stating the name of the claim, the purpose and the kind of material for which such claim is located, the name or names of the persons locating same: and, if located upon surveyed lands, such notice shall contain a description of such claim by its legal subdivision; if upon unsurveyed lands, such notice shall contain a description of such claim by metes and bounds, with reference to some known object or monument. And whether upon surveyed or unsurveyed lands each corner of such claim shall be marked by a wooden post at least four feet high, securely set in the ground. or by a substantial stone monument. (L. '09, Ch. 65, §2; Code '15, §3460.

88-117. Id.—Location notice—Recording—Discovery—Prospecting for oil and gas. A duplicate of such location notice shall be filed and recorded in the office of the county clerk of the county wherein the land located is situate, within ninety days after such location is made and such notice placed on the claim as aforesaid; and, prior to filing said notice, the locator or locators must have a bona fide discovery of the mineral or material claimed in said notice or said location will be void and subject to relocation by another person or persons: Provided, however, That in cases where land has been located for petroleum oil or natural gas, the locator or locators shall have the time from the date of the location to the end of the calendar year succeeding that in which the location is made, to make a discovery of petroleum oil or natural gas: Provided further, That when lands have been located for petroleum oil or natural gas, or both, the locator or locators thereof shall have the right to the exclusive possession and occupancy of the lands embraced in said location for the purpose of prospecting for petroleum oil or natural gas, during the period of time provided in this section for making discovery of petroleum oil or natural gas or both. (L. '27, Ch. 48, §1; amending L. '25, Ch. 90, §1; Code '15, §3461.

Note. The Seventh Legislature by Chapter 90. Laws of 1925. amended Section 3461. Code of 1915, so as to read as follows: "A duplicate of such location notice shall be filed and recorded in the office of the County Clerk of the county wherein the land located is situated, within ninety days after such location is made and such notice placed on the claim as aforesaid: and, prior to filing said notice, the locator or locators must have made a bona fide discovery of mineral or material claimed in said notice, shall have sunk a discovery shaft upon said claim, to a depth of at least ten feet from the lowest part of the rim of such shaft at the surface. The locator at the time of filing the location notice, as above provided, shall also file with the County Clerk, a sworn statement showing that the discovery or assessment work, as provided by the laws of the United States, has been performed, which statement shall clearly show the amount and kind of work performed." The Eighth Legislature in turn amended said Chapter 90 so as to read as above shown by Section 88-117. which is almost the verbatim reenactment of said Section 3461. Said Chapter 90 seems within the scope of nroner state legislation and such acts have *been* held to be valid and their provisions mandatory. Therefore, in considering locations made during the period the act was in force, attention should be given to whether compliance with its requirements was made.

Section 88-117 is probably ineffective insofar as its purports to relate to placer oil claims, unless such claims were in existence on February 25. 1920. and were validated by discovery and thereafter maintained according to law. On that date the Federal Leasing Act went into effect and removed oil and gas deposits and lands in which they are found from the operation of the general mining laws. State legislation has followed to the same effect.—C. H. F.

88-118. Id.—Size. The size of the claim or claims to be located under section 88-115 to 88-117, and the amount of annual assessment work to be done thereon in order to hold possession of and secure patent to the same, shall be the same as provided by Revised Statutes of the United States. (L. '09, Ch. 65, §4; Code '15, §3462.

Note. Sections 2330 and 2331 of the United States Revised Statutes limit the size of placer claims. Section 2330 provides that no location of a placer claim, made after July 9, 1879, shall exceed one hundred and sixty (160) acres for any one person or



the United States Surveys. Section 2331 provides that all placer-mining claims located after May 10, 1872. shall conform as nearly as practicable with the United States system of public lands surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty (20) acres for each individual claimant: but where placer claims can not be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands. Under these sections an individual may locate twenty (20) acres as a claim and an association may locate a claim not exceeding twenty (20) acres for each individual in the association but in no event exceeding one hundred and sixty (160) acres.

The size of lode claims is limited by Section 2320 of the Revised Statutes which provides that a mining claim located after May 10, 1872. may equal but shall not exceed fifteen hundred (1500) feet in length along the vein or lode, and that no claim shall extend more than three hundred (300) feet on each side of the middle of the vein at the surface.—C. H. F.

## ARTICLE 2. ACTIONS - CONTESTS - POSSESSION

### Section

- 88-201 Ejectment for recovery of mining claims.
- 88-202 Contested claims—ejectment—possession immaterial.
- 88-203 Id.—special verdict of findings—effect of pendency of suit.
- 88-204 Id.—working mine during pendency—waste.
- 88-205 Id.—measurements and surveys—right of entry.
- 88-206 Id.—who may enter.
- 88-207 Id.—notice of desire to enter.
- 88-208 Id.—refusing entry—effect—remedy.
- 88-209 Id.—admissibility of evidence.
- 88-210 Right of entry by stockholder.
- 88-211 Id.—penalty for refusal.
- 88-212 Id.—who are stockholders.
- 88-213 Persons in possession—injunctions against trespass.

88-201. Ejectment for recovery of mining claims. An action of ejectment will lie for the recovery of the possession of a mining claim. as well as also of any real estate, where the party suing has been wrongfully ousted from the possession thereof, and the possession wrongfully detained. (L. '76, Ch. 38, §5; C. L. '97, §2289; Code '15, §3463.

88-202. Contested claims—Ejectment—Possession immaterial. That when an application is made for a patent to a mine or mining claim under the laws of the United States by any person, persons, company or corporation claiming to own or have an interest therein, and such application is contested by any other person, persons, company or corporation in the land office of the United States, such person, persons, company or corporation so contesting, may bring a suit of ejectment in the district court of the county in which the mine or mining claim is situated, for the recovery of the same, whether in or out of possession of such mine or claim, and the question as to who was in the possession of the mine or claim at the time when the application was made for patent, or when the suit was begun, shall not be considered by the court, except as it may be necessary in determining the interests of the respective claimants, and their right to the possession of said mine or claim. (L. '87, Ch. 54, §1; C. L. '97, §2290; Code '15, §3464.

88-203. Id.—Special verdict or findings—Effect of pendency of suit. The court, in an action for the recovery of a mine or mining claim

where a patent is applied for, and the contest is pending in the land office of the United States, may, upon motion of either party to the suit, require the jury to return a special verdict, if tried by jury; if not, then by a judge trying the same shall make a special finding as to the particular interest each party owns in the mine or claim in dispute, under and by virtue of the mining laws of the United States, which special verdict or finding shall be entered into the judgment and upon the record of the court trying the same: Provided, however, There shall be no special verdict by the court or jury, except where the evidence shows both parties to the suit to have a bona fide interest in the mine or claim sued for: And provided further, That no third person who may have entered upon such mining claim or any part thereof, for the purpose of locating or claiming the same before or during such litigation in the district court growing out of any contest in any United States land office in this state, shall acquire any interest either at law or in equity in the claim or any part thereof in dispute, and shall be deemed and declared a trespasser or trespassers, unless he or they have been, or may, during the pendency of such litigation in the district court resulting from such contest in the United States land office, by a proper application to the court, be made party or parties to such suit adverse to either of such litigants, or both, or shall have taken such legal steps to assert his or their claim in a court of competent jurisdiction within six months after the commencement of such contest in the United States land office. (L. '89, Ch. 111, §1; C. L. '97, §2291; Code '15, §3465.

88-204. *Id.*—Working mine during pendency—Waste. That nothing in the two preceding sections shall prohibit the working and development of a mine or mining claim by either party in interest who may be in possession of the mine or claim during the pendency of the suit, nor prohibit any one from bringing an action for damages, or a suit in equity to prevent waste. (L. '87, Ch. 54, §3; C. L. '97, §2292; Code '15, §3466.

88-205. *Id.*—Measurements and surveys—Right of entry. In all actions at law. or suits in equity. in any of the district courts of this state. wherein the title or right of possession to any mining claim. or ores and minerals is in dispute. any party to such action or suit shall have the right to go upon or enter the workings of said mining claim for the purpose of measuring or surveying the same. either upon the s'face or in the workings thereof, peaceably, and without molestation; the costs and expenses of such measurement or survey to be paid by the party for whose use and benefit the same was done. (L. '87. Ch. 55, §1; C. L. '97, §2292; Code '15, §3467.

88-206. *Id.*—Who may enter. The right to go upon and enter said mining claim shall be extended to the party applying therefor, as well as a surveyor and two chain carriers. (L. '87, Ch. 55, §2; C. L. '97, §2294; Code '15, §3468.

88-207. *Id.*—Notice of desire to enter. Before any person may enter upon or go into the workings of such mine without the consent of the person or corporation in possession, he shall give not less than five

days' notice in writing to such person in possession, or to his agent or manager, and if the possession is held by a corporation, said notice shall be served upon the president, agent or manager of such corporation, or upon the foreman in charge of the mine, that at a certain date, specified in said notice, he desires to enter upon or go into the workings of said mine, as the case may be, for the purpose of surveying and taking a measurement of the same, in order that he may be able to present the facts on the trial. (L. '87, Ch. 55, §3; C. L. '97, §2295; Code '15, §3469.

88-208. Id.—Refusing entry—Effect—Remedy. If such person or corporation shall not permit any party in interest in such suit or action, to go upon or enter said mine, as contemplated in the preceding sections, after having been notified in the manner designated, the court may, upon proper showing, verified by affidavit, or otherwise, exclude all evidence offered on the trial by the party so refusing, or render judgment or decree in favor of the party giving such notice: Provided, That the court may, in its discretion, make an order directing the sheriff to go upon the ground with the party applying for the measurement and survey of such mine, and place the person so applying in possession, for the purpose of measuring and surveying the same, in which case the court may direct the payment of costs as may be just and proper. (L. '87, Ch. 55, §4; C. L. '97, §2296; Code '15, §3470.

88-209. Id.—Admissibility of evidence. The competency, relevancy and effect of such survey and measurement, as evidence, shall be governed by the ordinary rules of evidence in civil cases. (L. '87, Ch. 55, §5; C. L. '97, §2297; Code '15, §3471.

88-210. Right of entry by stockholder. Any person owning stock in any corporation or company owning or operating mines in this state, shall at any time during the business hours of the day, have the right to enter in and upon any and all mines in such corporation or company, and all underground workings connected therewith for the purpose of examining the same. (L. '82, Ch. 33, §1; C. L. '97, §2306; Code '15, §3472.

88-211. Id.—Penalty for refusal. Every corporation or company or officer or agent of such corporation or company who shall refuse to allow upon demand, any person owning stock in such corporation or company, to enter such mines, as in the preceding section provided, shall be guilty of a misdemeanor, and the corporation or company shall forfeit and pay to the party injured a penalty of one hundred dollars for every such refusal, and all damages resulting therefrom. (L. '82, Ch. 33, §2; C. L. '97, §2307; Code '15, §3473.

88-212. Id.—Who are stockholders. The words "any person owning stock" as used in the preceding sections shall be taken and considered to mean stockholders, whose names appear on the stockbook of the company as owners of stock, and none others. (L. '84, Ch. 45, §1; C. L. '97, §2308; Code '15, §3474.

88-213. Persons in possession—Injunctions against—Trespass. When any person, firm or corporation shall be lawfully and peaceably in possession of any mining claim in this state, and shall have complied with all the requirements of law and regulations in force in the district in which said mining claim is situate, such persons, firm or corporation shall be deemed to be the rightful possessor of such mining claim and of the land included therein; and any person or the officer, agent or employee of any corporation who shall by force, intimidation, fraud or stealth, or in the temporary absence of the rightful possessor, enter upon such mining claim with intent to hold the same, or any part thereof, against the rightful possessor shall be considered a trespasser, and the judge of the district court for the district in which such claim is situated shall, upon the proper showing of such facts made by affidavit or by oral testimony upon a hearing ordered for that purpose, and upon the filing with the clerk of said district court of a good and sufficient bond, grant an order to show cause why a writ of injunction should not issue, enjoining and restraining such trespasser, his servants, agents and employees, and any person associated with him, from in any manner interfering with the rightful possessor in the possession of such claim, until the final disposition of such cause. (L. '97, Ch. 58, §5; C. L. '97, §2313; Code '15, §3475.

#### ARTICLE 3. RECORDS OF MILLS AND SMELTERS

##### Section.

88-301 Ore purchases and receipts—records to be kept.

88-302 Id.—inspection.

88-303 Id.—failure to keep book—liability.

88-304 Id.—improperly keeping record.

88-305 Purchasing stolen ore.

88-301. Ore purchases and receipts—Records to be kept. That every person, association or corporation that shall be engaged in the business of milling, sampling, concentrating, reducing, shipping or purchasing ores in the state of New Mexico. shall keep and preserve a book in which shall be entered at the time of the delivery of each lot of ore:

First. The name of the party on whose behalf such ore is delivered, as stated.

Second. The name of the teamster, packer or other persons actually delivering such ore, and the name of the owner of the team or pack train delivering such ore.

Third. The weight or amount of each lot of ore.

Fourth. The name and location of the mine or claim from which it shall be stated that the same had been mined or urocured.

Fifth. The date of delivery of any and all lots or parcels of ore. (L. '89, Ch. 103, §1; C. L. '97, §2318; Code '15, §3476.

88-302. Id.—Inspection. Whenever affidavit shall have been made before any justice of the peace or notary public in any county in this state by any person, that ore has been stolen from him, stating as near as may be the amount and value of the ore stolen, such person, upon presentation of a certified copy of such affidavit shall have access to such

books, and may examine the entries which may *have* been made therein during a period of twelve months next preceding the filing of such affidavit. (L. '89, Ch. 103, §2; C. L. '97, §2319; Code '15, §3477.

88-303. Id.—Failure to keep book—Liability. Every person, association or corporation that shall fail or refuse to keep the book required by the terms of section 3476, or shall fail or refuse to make any proper entry therein, or who shall refuse to any person who may be entitled to the same, as provided by the preceding section, the right of inspection thereof, shall forfeit and pay for each and every violation of the provisions of said section, a penalty of not less than fifty, nor more than three hundred dollars, to be collected by action of debt at the suit of any person who may have made the necessary affidavit provided for in the preceding section, to entitle such person to access to such books. in addition to said penalty, any person, association or corporation violating the provisions of the said section shall be liable at the suit of the party or person aggrieved, in the proper form of action, for all damages which may accrue to any party or person by reason of any such violation. And in all actions the fact that a false entry has been made shall be *prima facie* evidence that the same was made wilfully or knowingly. (L. '89, Ch. 103, §3; C. L. '97, §2320; Code '15, §3478.

88-304. Id.—Improperly keeping record. If any person, association or corporation shall fail or neglect to make the inquiries necessary to the making of the proper entries in said book as provided by section 3476, or shall so negligently make entries therein that any lot of ore cannot be particularly identified, or so negligently that it cannot be perceived therefrom what person delivered any lot of ore or received the proceeds of the same when purchased, or shall fail to keep such book or shall wilfully suffer *the same* to be lost or mislaid, so that the same cannot be produced for inspection. such failure or neglect shall not excuse any party defendant in any suit brought under the preceding section from inclement for any penalties prescribed by said section. (L. '89, Ch. 103, §4; C. L. '97, §2321; Code '15, §3479.

88-305. Purchasing stolen ore. Any person, association or corporation, or agent of any person, association or corporation who shall knowingly purchase or contract to purchase, or shall make any payment for or on account of any ore which shall have been taken from any mine or claim, by any person or persons who have taken or may be holding possession of any such mine or claim contrary to law, shall be considered as accessory after the fact to the unlawful holding or taking of such mine or claim, and upon conviction shall be subjected to the same punishment to which the principals may be liable. (L. '89, Ch. 103; §5; C. L. '97, §2322; Code '15, §3480.

#### ARTICLE 4. RIGHTS OF WAY

Section.

88-401 Rights of way for roads, pipe lines, tramways, railways, ditches and flumes—Eminent domain.

88-402 Id.—Notice of application.

88-403 Id.—Application.

88-404 Id.—Commissioners—Qualifications and oath.

88-405. Id.—Commissioners--Per diem and mileage.

88-406 Id.---Assessment of damages—Hearing—Order of court.

88-407 Id.—Ore on right of way.

88-408 Id.—Interference with shafts or tunnels.

88-409 Id.—Procedure.

88-401. Rights of way for roads, pipe lines, tramways, railways, ditches and flumes—Eminent domain. That any mine or oil well owners, mill owner or mill owners, or any mining, oil well drilling or milling corporation for the purpose of transporting or conveying coal, oil, ores or minerals to a mill, crusher, washer, tippie or reduction works of any sort for the reduction, washing, crushing, loading for shipment, or milling of such coal, oil, ores or minerals, or for the purpose of transporting or conveying coal, oil, ores, minerals, metals, waters, tailings, or refuse to or from any mill, washer, crusher, tippie or reduction works, shall have a right of way for a road, pipe line, tramway, railway, ditch or flume across the lands of other persons by condemnation and payment of damages. (L. '19, Ch. 109, §1, amending Code '15, §3481.

88-402. Id.—Notice of application. In order to acquire said right of way, the applicant or applicants shall give ten days' notice in writing, to be served by a sheriff or constable to each person owning or having any claim upon the lands to be crossed by the road, pipe line, tramway, railway, ditch or flume, that the applicant will file, before the judge of the district court of said county wherein the land lies, an application to condemn a right of way over such person's lands. (L. '19, Ch. 109, §2, amending Code '15, §3482.

88-403. Id.—Application. The application shall set out the full name or title of the applicant or applicants and describe the location of the mine or mines, or oil well, mill or mills, he, it or they are operating or intend to operate, and a description as near as possible of the lands to be crossed by said road, pipe line, tramway, railway, ditch or flume, and said application shall be accompanied by a plat showing the location and position of said mine or mines, or oil well, mill or mills, and the lands over which said road, tramway, mine line, railway, ditch or flume, shall run, and the course and width of the ground necessary to be condemned and the facts showing the necessity for such road, pipe line, tramway, railway, ditch or flume. And for the purpose of making and preparing the plat aforesaid, such mine or well owner or mine or well owners, mill owner or owners, of his, its or their agents, shall have the right to go upon the lands of any other persons and make all necessary surveys, measurements and investigations. (L. '19, Ch. 109, §3, amending Code '15, §3483.

88-404. Id.—Commissioners - Qualifications and oath. Upon the presentation of said application to the judge of said court, he shall at once order and make the appointment of three commissioners to assess the damages; the commissioners shall be householders of the county

wherein the property is situate, and shall make oath upon their appointment before any official authorized to acknowledge deeds in the state, that each of them is worth the sum of \$2,500.00 over and above all just debts, liabilities and exemptions by law, and said commissioners shall not be of the neighborhood of the mine or mill to be worked or operated. (L. '19, Ch. 109, §4, amending Code '15, §3484.

88-405. Id.—Commissioners - Per diem and mileage. The commissioners shall each be allowed five dollars per day for their services. The applicant shall pay in advance for one day to each commissioner, and such commissioners shall also be allowed mileage at the rate of twelve and one-half cents per mile each way for going to and returning from said place of assessment from their places of residence. (L. '89, Ch. 142, §5; C. L. '97, §2332; Code '15, §3485.

88-406. Id.—Assessment of damages - Hearing - Order of court. The said commissioners shall view the ground and determine the amount of damages due to each owner or claimant or claimants, and assess said damages and report the same in writing to the said judge of said district court; that the said court shall at once examine said report and hear any objections made thereto in writing sustained by evidence to be submitted at such hearing, or by written affidavits; notice of filing said affidavits must be given to the opposite party with copies of the affidavits ten days before the date of filing the same. Whereupon the judge of the court, shall, in his discretion, either confirm, modify or reject the report of said commissioners. If said report of said commissioners be confirmed or modified by the judge, and all costs and damages paid by applicants the judge shall issue an order, attested by the clerk of his court, commanding the sheriff of said county to put the applicant in possession of said right of way as shown in said plat, for executing which, said sheriff shall be allowed \$5.00 and his mileage. (L. '19, Ch. 109, §5, amending Code '15, §3486.

88-407. Id.—Ore on right of way. In grading for said road, pipe line, tramway, railway, ditch or flume, if any ore is found, the applicant shall carefully throw it aside in a separate pile or piles and not mix it with other dirt or debris. (L. '19, Ch. 109, §6, amending Code '15, §3487.

88-408. Id.—Interference with shafts or tunnels. No shaft shall be covered or tunnel intercepted or cut through or on, any mining claim without the consent of the owner thereof: Provided, this shall not apply to shafts and tunnels as they exist one month before the filing of the application. (L. '89, Ch. 142, §8; C. L. '97, §2335; Code '15, §3488.

88-409. Id.—Procedure. The proceedings provided for in this article shall be as in a court of chancery, except as otherwise provided, and the judge of the district court of the county where such land lies may render his final decree therein in chambers, as well as in term time. (L. '89, Ch. 142, §9; C. L. '97, §2336; Code '15, §3489.

## ARTICLE S. BUREAU OF MINES AND MINERAL RESOURCES

## Section

- 88-501 Establishment of bureau.
- 88-502 Objects and duties of bureau.
- 88-503 Annual reports.
- 88-504 Printing of regular and special reports.
- 88-505 Distribution of materials collected.
- 88-506. Use of appropriated funds.

88-501. Establishment of bureau. There is hereby established a bureau of mines and mineral resources of the state of New Mexico which shall be a department of the New Mexico school of mines and under the direction of its board of regents. The said board shall appoint as a director a suitable person to be known as the director of the bureau of mines and mineral resources and upon his nomination such assistants and employees as the said board shall deem necessary. Said board may also determine the compensation of all persons employed by the bureau of mines and mineral resources including the director and may remove them at will. (L. '27, Ch. 115, §1.

88-502. Objects and duties of bureau. The objects and duties of said bureau of mines and mineral resources shall be as follows:

- (1) To collect, to compile and to publish statistics relative to New Mexico geology, mining, milling, metallurgy and oil and natural gas and the refining thereof.
- (2) To collect typical geological and mineral specimens and samples of products; to collect photographs, models and drawings of appliances used in the mines, mills, smelters, oil wells, natural gas wells and the refineries of oil and natural gas in New Mexico.
- (3) To collect a library and bibliography of literature, pertaining to the progress of geology, mining, milling, smelting and the production of oil and natural gas and refining the same in New Mexico.
- (4) To study the geological formations of the state with special reference to their economic mineral resources, both metallic and nonmetallic.
- (5) To examine the topography and physical features of the state with reference to their practical bearing upon the occupation of the people.
- (6) To study the mining, milling, smelting operations and oil and natural gas production and the refining of the same carried on in the state with special reference to their improvement.
- (7) To prepare and publish bulletins and reports with the necessary illustrations and maps, which shall embrace both a general and detailed description of the natural resources and geology, mines, mineral deposits, both metallic and non-metallic, oil wells, natural gas wells, reduction plants, smelters, mills, oil refineries and natural gas refineries.
- (8) To make qualitative examinations of rocks and mineral samples and specimens.
- (9) To assist in the education of miners and prospectors through lectures and publications.
- (10) To consider such other kindred, scientific and economic problems and questions as in the judgment of the board shall be deemed of



value to the people of the state.

(11) To communicate special information on New Mexico geology, mining, both metallic and non-metallic, oil and natural gas and to serve as a bureau of exchange and information on the mineral, oil and natural gas resources of New Mexico.

(12) To co-operate with the university of New Mexico, with the state mine inspector and with other departments of state government as may be mutually beneficial and to co-operate with the United States geological survey and with the United States bureau of mines in accordance with the regulations of those institutions. (L. '27, Ch. 115, §2.

88-503. Annual reports. The board shall cause to be prepared an annual report showing the progress and condition of the bureau, together with such other information as they may deem necessary or useful, or as the board may require. (L. '27, Ch. 115, §3.

88-504. Printing of regular and special reports. The regular and special reports of the bureau of mines and minerals shall be printed as the board may direct and the reports may be distributed or sold by the board as the interest of the state or science may demand and the money obtained by the sale of said reports shall be paid into the state's treasury. (L. '27, Ch. 115, §4.

88-505. Distribution of materials collected. All materials collected after having served the purpose of the bureau shall be distributed by the board to such educational institutions of the state as the board may direct. (L. '27, Ch. 115, §5.

88-506. Use of appropriated funds. The board may use of the funds appropriated for the maintenance of the New Mexico school of mines such sums as may be necessary for the maintenance of the bureau hereby created, not to exceed, however, such sums as may be appropriated for the New Mexico school of mines from the fund provided by section 35 of Senate bill No. 2775 United States Congress. (Public—No. 14666th Congress.) (L. '27, Ch. 115, §6.

#### ARTICLE 6. COAL MINES

##### Section.

88-601 Coal mines—Owners to make map.

88-602 Id.—Inspection of map.

88-603 Coal mines—Hoisting machinery.

88-604 Coal mines—"Owner" includes lessee.

88-605 Failure to comply with law.

88-606 Id.—Negligence of overseer—Penalty.

88-607 Id.—Boiler inspection.

88-608 New coal mines—Law does not apply.

88-609 Scales.

88-610 Id.—Oath of weigher—Record.

88-611 Id.—Check-weighman.

88-612 Id.—Using false weights, etc.

88-618 Id.—Offenses.

88-614 Payment of employees in script prohibited.

88-615 Exception to preceding section.

88-616 Coercing employees to trade.

- 88-617 Id.—Duty of district attorney.  
88-618 Coercing purchases at company's store.  
88-619 Id.—Penalty.  
88-620 Safety provisions—Violation.  
88-621 Coal mines—Unlawful *acts in*.  
88-622 Igniting shots.  
88-623 Shot firer—Interfering with.  
88-624 Electrical apparatus—Interfering with.  
88-625 Equipment—Interfering with.  
98-626 Setting fire to.

88-601. Coal mines—Owners to make map. The owner or agent of every coal mine shall make or cause to be made an accurate map or plan of the workings of such coal mine or mines, on a scale of one hundred feet to the inch. (L. '82, Ch. 57, §1; C. L. '97, §2339; Code '15, §3490.

88-602. Id.—Inspection of map. A true copy of which map or plan shall be kept at the office of the owner or owners of the mine open to the inspection of all persons, and one copy of such map or plan shall be kept at the mines by the agent or other persons in charge of the mines, open to the inspection of the workmen. (L. '82, Ch. 57, §2; C. L. '97, §2340; Code '15, §3491.

88-603. Coal mines—Hoisting machinery. The overseer shall see that the hoisting machinery is kept constantly in repair, and ready for use to hoist the workmen out of the mine. (L. '82, Ch. 57, §6; C. L. '97, §2344; Code '15, §3492.

88-604. Coal mines—"Owner" includes lessee. The word "owner" as used in the first eight sections of this article, shall apply to lessee as well. (L. '82, Ch. 57, §7; C. L. '97, §2345; Code '15, §3493.

88-605. Failure to comply with law. For every injury to person or property occasioned by any violation of this article, or any willful failure to comply with its provisions, a right of action shall accrue to the party injured for any direct damages he or she may have sustained thereby, before any court of competent jurisdiction. (L. '82, Ch. 57, §8, C. L. '97, §2346; Code '15, §3494.

88-606. Id.—Negligence of overseer—Penalty. For any willful failure or negligence on the part of the overseer of any coal mine, he shall be liable to conviction of a misdemeanor and punished according to law: Provided, That if such willful failure or negligence is the cause of the death of any person, the overseer, upon conviction, shall be deemed guilty of manslaughter. (L. '82, Ch. 57, §9; C. L. '97, §2347; Code '15, §3495.

88-607. Id.—Boiler inspection. All boilers used for generating steam in and about the mine shall be kept in good order, and the owner or agent in charge of such mine shall have them inspected by some competent boiler maker as often as once in every three months. (L. '82, Ch. 57, §10; C. L. '97, §2348; Code '15, §3496.

88-608. New coal mines—Law does not apply. The preceding

sections shall not apply to the opening of new coal mines. (L. '82, Ch. 57, §11; C. L. '97, §2349; Code '15, §3497.

88-609. Id.—Scales. That the owner or agent of each coal mine within this state, at which the miners are paid by weight, shall provide at or near such mine suitable scales of standard make for the weighing of all coal mined. (L. '89, Ch. 126, §1; C. L. '97, §2350; Code '15, §3498.

88-610. Id.—Oath of weigher—Record. The owner or agent of such mine shall require the person authorized to weigh the coal delivered from said mine to be sworn, before some person having authority to administer an oath, to keep the scales correctly balanced; to accurately weigh and to record a correct account of the amount weighed of each miner's car of coal delivered from such mine, and such oath shall be kept conspicuously posted at the place of weighing. The record of the coal mined by each miner shall be kept separate and shall be open to his inspection at all reasonable hours, and also for the inspection of all other persons pecuniarily interested in such mine. (L. '89, Ch. 126, §2; Code '15, §3499.

88-611. Id.—Check-weighman. In all coal mines in this state the miners employed and working therein may furnish a competent checkweighman, who shall at all proper times have full right of access and examination of such scales, machinery or apparatus, and seeing all measures and weights of coal mined and accounts kept of the same: Provided, That no more than one person on behalf of the miners collectively shall have such right of access, examination and inspection of scales, measures and accounts at the same time and that such person shall make no unnecessary interference with the use of such scales, machinery or apparatus. The agent of the miners as aforesaid shall, before entering upon his duties make and subscribe to an oath before some officer duly authorized to administer oaths, that he is duly qualified and will faithfully discharge the duties of check-weighman. Such oath shall be kept conspicuously posted at the place of weighing. (L. '89, Ch. 126, §3; C. L. '97, §2352; Code '15, §3500.

88-612. Id.—Using false weights, etc. Any person, company or firm having or using any scale or scales for the purpose of weighing the output of coal at mines so arranged or constructed that fraudulent weighing may be done thereby, or who shall knowingly resort to or employ any means whatsoever by reason of which such coal is not correctly weighed or reported in accordance with the provisions of the three preceding sections, or any weighman or checkweighman who shall fraudulently weigh or record the weights of such coal, or receive at or connive at, or consent to such fraudulent weighing, shall be deemed guilty of a misdemeanor, and shall upon conviction for each such offense be punished by a fine of not less than two hundred dollars (\$200), nor more than five hundred dollars (\$500), or by imprisonment in the county jail for a period not to exceed sixty days, or by both such fine and imprisonment, proceedings to be instituted in any court of competent jurisdiction. (L. '89, Ch. 126, §4; C. L. '97, §2353; Code '15, §3501.

88-613. Id.—Offenses. Any person, owner or agent operating a coal mine in this state who shall fail to comply with the provisions of sections 88-609 to 88-612 inclusive, or who shall obstruct or hinder the carrying out of their requirements shall be fined for the first offense not less than fifty dollars (\$50), nor more than two hundred (\$200) dollars; for the second offense not less than two hundred (\$200), nor more than five hundred (\$500), and for the third offense not less than five hundred dollars (\$500) : Provided, That the provisions of said sections shall apply only to coal mines whose products are shipped by rail and shall not apply to mines where suitable scales of standard make furnished by any railroad or transportation company or through which the coal is shipped or used for such weighing. (L. '89, Ch. 126, §5; C. L. '97, §2354; Code '15, §3502.

88-614. Payment of employees in script prohibited. It shall be unlawful for any person, firm, company or corporation owning or operating coal or other mines or transacting any kind of general mercantile business in the state of New Mexico, to sell, give, deliver, or in any manner issue directly or indirectly, to any person employed by him or it in payment for wages due for labor or as advances on wages of labor not due, any script, check, draft or order, or evidence of indebtedness payable or redeemable otherwise than in their face value in money; any such person, acting member or agent of any firm, acting agent or agents or officers of any company or corporation firm who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, nor less than two hundred and fifty dollars, and the amount of any script, token, check, draft, order or other evidence of indebtedness sold, given, delivered or in any manner issued in violation of the provisions of this section shall recover in money at the suit of any holder thereof against the person, firm, company or corporation selling, giving, or delivering or in any manner issuing the same. (L. '97, Ch. 11, §1; C. L. '97, §2355; Code '15, §3503.

88-615. Exception to preceding section. The provisions of the preceding section shall not apply in any instance where the issuance of script, check, draft, or order, is upon the voluntary request or at the instance of the party to whom issued, but only in cases where the employer seeks to compel, coerce, or influence the employee against his will to accept the same. (L. '07, Ch. 44, §1; Code '15, §3504.

88-616. Coercing employees to trade. Whoever compels or in any manner seeks to compel or coerce an employee or any person, firm, company or corporation to purchase goods or supplies from any particular person, firm, company or corporation shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or imprisonment in the county jail not exceeding sixty days, or both, at the discretion of the court. (L. '97, Ch. 11, §2; C. L. '97, §2356; Code '15, §3505.

88-617. Id.—Duty of district attorney. The district attorney of any county in the state of New Mexico, upon complaint being made to him of the violation of any of the provisions of the three preceding sections in said county shall cause such complaint to be investigated before the grand jury of the county where such wrong has been complained of at its next session following the time such complaint is made. (L. '97, Ch. 11, §3; C. L. '97, §2357; Code '15, §3506.

88-618. Coercing purchases at company's store. It shall be unlawful for any person, firm, or corporation employing labor in this state, or any agent, superintendent, or boss of said person, firm, or corporation, by threat, direct or indirect, or in any other manner, to coerce, or compel any employee to buy goods of, or trade with, any store, business, or commissary, or to discharge or threaten to discharge any employee for failure so to do. (L. '21, Ch. 10, §1.

88-619. Id.—Penalty. A violation of this act on conviction therefor, before a court of competent jurisdiction, shall subject the offender to a fine of not more than \$200.00 or less than \$50.00, or imprisonment for not more than ninety days or less than thirty days, or both, in the discretion of the court trying the case. (L. '21, Ch. 10, §2.

88-620. Safety provisions—Violation. (1) In all coal mines, the owner, lessee, manager or operator shall provide at least two shafts, slopes or other outlets separated by natural strata of not less than fifty feet in breadth, by which shafts, slopes or outlets, distinct means of ingress or egress shall always be available to the employees in said mines; and in no case shall a furnace shaft be deemed an escape shaft.

(2) In all coal mines operated by shafts, a safe and stable stairway shall be provided by the owner, lessee, manager or operator and placed in the second opening or escape shaft, which stairway shall be set at an angle not greater than fifty degrees, shall not be less than two and one-half feet wide in the clear, shall have a substantial hand rail throughout its entire length with stations not more than thirty feet apart, each station having a substantial platform or landing at least three and one-half feet wide and five feet in length; provided, that in no instance shall a ladder way be considered as a compliance with the foregoing requirements.

(3) Reasonable care shall be used by every owner, operator, manager or lessee to provide safety catch or clutch and a good and substantial iron bonnet or overhead cover on every cage, used in lowering or hoisting persons, in every shaft operated in mines in the state.

(4) All machinery or appliances used for transportation of persons in said mines shall be provided with adequate safety appliances and shall be inspected at regular intervals by competent persons for that purpose, appointed by the owner, lessee, operator or manager of the mine.

(5) Every shaft, slope or drift opening used for an escapeway from coal mines, shall be traversed throughout its entire depth or length and regularly and carefully inspected by a competent employee designated by the owner, lessee or operator for that purpose once a week, which said employee shall report upon the condition of such escapeway, and

shall make a record of such inspection, which record shall show the date of each inspection and the condition of the escapeway inspected, which said record shall at all times be open to the inspector.

(6) Every operator of any coal mine which shall have attained a distance of one hundred feet in depth of shaft or length of slope, entry or drift from the surface, or from the bottom of the shaft, shall use all reasonable means to provide an adequate amount of ventilation of not less than one hundred cubic feet of pure air per minute for each person at work in said mine and not less than three hundred cubic feet of pure air per minute for each mule, horse or burro used in said mine, and to cause such air to be forced by proper appliances through said mine to the face of each and every working place in such a manner as to render harmless and expel therefrom all dangerous or poisonous gases; and shall use reasonable care at all times to keep all workings in operation in said mine free from standing gas.

(7) At least four safety lamps, four electric hand lamps and four masks or helmets provided with a supply of oxygen or air sufficient to sustain respiration for the user thereof for at least one hour, shall be kept for rescue work by each company or operator at every coal mining camp where twenty-five or more men are employed. \*

(8) Every fan hereafter erected or constructed at any coal mine must be placed at least twenty feet distant from the side or mouth of the shaft entry or slope with which it is connected for ventilation purposes, and shall be as much as possible of fire proof construction; and explosion doors shall be provided in a direct line with the mine opening.

(9) In each coal mine which vents gas, which, in combination with air, will induce or maintain an explosive condition, it shall be the duty of the operator to keep constantly employed one or more experienced men whose duties it shall be to act as fire bosses, whose duties it shall be to carefully inspect all working places, in said mine by making tests for gas with a safety lamp within three hours before each working shift enters said mine and to make a written record of the conditions in the mine after each examination, in a book to be kept for that purpose; said fire bosses shall mark with chalk on the face of the room his initials and the date and hour of the examination as proof to the miner that his working place has been examined. Any fire boss discovering standing gas in any workings or openings in any coal mine, shall immediately place a danger sign at the entrance of the place where such standing gas is found at such distance therefrom as would give timely *warning to* any person carrying an open light. Said fire boss or gas watchman shall then proceed with and complete his examination of said mine, placing like signs before each working place where standing gas is found; and thereupon shall proceed **to** take the necessary steps to improve the ventilation and remove standing gas wherever found.

(10) In like manner and within the same time before any working shift enters the mine, the fire boss shall examine all accessible gobs and abandoned workings in said mine which there is reason to believe might accumulate gas in dangerous quantities. Naked lights shall not be used in any ventilating district between the place where safety lamps are neces-

sary to be used and outside opening of the return airway. The owner, operator or manager of every coal mine shall use reasonable care to provide that all brattice cloth used shall be fireproof cloth, and that doors therein shall be made as fireproof as possible by painting with fireproof paint or covering with metal; that rags or other inflammable material shall not be used to stop leaks; that doors must be hung in such a manner as to close automatically; and that all over-casts shall be of stone or other fireproof material.

(11) It shall be the duty of the operator, owner or manager of every coal mine to provide an ample supply of timbers and to cause the same to be delivered on the pit car, at the request of the miners, as near as practicable to the places where the same are to be used. The operator shall not store or knowingly permit to be stored any powder or other explosive in any coal mine, nor knowingly permit to be taken into any coal mine powder or other explosive in a greater quantity than may be required for use in one shift, unless such quantity be less than five pounds, and shall not knowingly permit black powder or powder not in cartridge form to be carried into the mine, except in metallic canisters, unless such powder is to be distributed by the shot inspector or used by the shot firer.

(12) The operator shall not knowingly permit to be used for illuminating purposes in any coal mine any oils other than pure animal or vegetable oils or other oils as free from smoke as a pure animal or vegetable oil, provided, however, that any material as free from smoke and bad odor and of equal merit as an illuminant as a pure vegetable oil, may be used.

(13) It shall be the duty of the operator of any mine in the event of a fatal accident occurring therein, to at once make a brief report of the same by telegraph or telephone to the Inspector; and within ten days thereafter it shall be his duty to make and transmit a full and complete report in writing to the Inspector of any such accident. It shall also be the duty of the operator to keep a complete record of all accidents which may occur in the mine operated by him at said mine, to which record the Inspector shall have access.

(14) It shall be the duty of the operator to exercise reasonable care to employ experienced, competent and sober men as shot firers, fire bosses, and engineers in charge of hoisting apparatus or engines, or in charge of explosives.

(15) It shall be the duty of the operator to install and maintain a telephone system in every coal mine to such extent as may be reasonably required for the operation thereof.

(16) It shall be the duty of the operator of every coal mine to supply at least one drag for each rope trip in all inclines and slopes to be attached to the rear end of the hind car, ascending such inclines or slopes, for the purpose of derailing the car in case the rope or couplings should break or any cars become detached. (L. 15, Ch. 49, §1.

(17) It shall be the duty of any operator of any coal mine employing twenty or more miners to employ shot firers to fire the shots therein, except where some approved mechanical or electric shot firing device is used; said shots shall be fired between working shifts, when all miners

and other employees, except shot firers and employees doing repair work, shall be out of the mine. When the miners are allowed to load and tamp the holes, the operator shall provide tamping consisting of some incombustible substance, which shall be delivered to points convenient to working places; provided, however, that the provisions of this subsection shall not apply to anthracite mines which do not generate inflammable gas. (L. '15, Ch. 49, §2.

(18) It shall be the duty of the operator of every coal mine where traveling roads are not provided and wherever workmen are compelled to travel the haulage road in the course of their ordinary duties, to provide a clear space, two feet in width, on one side of such haulage way or where such clear space is not provided he shall provide refuge holes, six feet in height, four feet in width and three feet in depth, on one or both sides along such haulage ways at intervals of not more than one hundred feet apart, and said refuge holes shall be kept whitewashed or painted white so as to be easily distinguished from the crib adjacent thereto; said operator shall also maintain similar refuge holes on main slope haulage ways.

(19) When a uniform code of mine bell signals has been arranged by the Mine Inspector, a copy of such code of signals shall be maintained in each hoisting engine house in plain view of the engineer in charge thereof and a similar copy thereof shall be maintained at each level or entry in said mine from which persons or coal are hoisted.

(20) Any operator of any coal mine who shall willfully fail or refuse to comply with any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than fifty dollars or more than five hundred dollars, or by imprisonment for not less than one month or more than three months, or by both such fine and imprisonment. (L. '12, Ch. 80, §6; Code '15, §3507 as amended.

88-621. Coal mines—Unlawful acts in. (1) It shall be unlawful for any miner to enter any mine or part of a mine generating explosive gas until it shall have been examined by the fire boss and by said fire boss reported safe.

(2) It shall be unlawful for any person to brush firedamp from any place in a coal mine by means of a coat, brattice cloth, sack or any article which might be used by a movement of the same with arms or hands.

(3) It shall be unlawful for any person employed in or about' any coal mine wherein a traveling way is provided, to travel upon the haulage road where rope or motor haulage is employed; except the track walker or the track repairer or timber men when in the performance of work necessary upon such haulage road, and the Inspector, mine superintendent, pit boss, fire boss or other officials in the inspection of such roads or other necessary duties. Such haulage road shall not be used for ordinary means of ingress or egress to or from the mine.

(4) It shall be unlawful for any person to tamp any drill hole in



any coal mine with slack coal, drill dust or other ordinarily combustible material.

(5) It shall be unlawful for any person other than the trip or rope rider, or his assistant or assistants, in any coal mine, to ride on or between the cars, entering or coming out from any mine or on or between the cars being moved within the mine, except in case of emergency; provided, however, that passengers may be hauled when the engineer or person in charge of the trip has been notified thereof.

(6) It shall be the duty of every coal miner to take down all dangerous coal, slate, rock or other material in his working place, or to make the same safe by proper timbering. It shall be unlawful for any coal miner to work or remain in any unsafe or dangerous place in a coal mine, knowing the same to be such, except for the purpose of remedying such condition, or for any owner or operator to require him to do so.

(7) It shall be unlawful for any person to load or ignite any shot hole in any narrow working, in any coal mine, until such working shall be either undermined, or cut or sheared on one side, to the full depth of the hole to be fired. Narrow workings are hereby defined as entries, room-necks, break-throughs or cross-cuts between entries and rooms; provided, however, that the provisions of this sub-section shall not apply where prospect entries or new openings are being made to determine the practicability of opening a mine; nor shall the same apply to anthracite mines which do not generate inflammable gas. (L. '15, Ch. 49, §3.

(8) It shall be unlawful for any person in any mine to wear a pit lamp in his cap or have an open light within five feet of any place where he is handling loose powder, caps or detonators, or preparing explosive cartridges of any kind.

(9) It shall be the duty of every shot firer in coal mines to inspect all shot holes before igniting any shots or blasts. He shall begin igniting the shots to be fired at such place that he can proceed with the firing in a direction opposite from that which the air is traveling. Whenever in his opinion any of the working places are too dry, dusty or otherwise dangerous, or that the drill holes are improperly placed, or that an overcharge of explosive is used, or that it is improperly tamped, or that the shot hole is in any particular defective, or if in the opinion of the shot firer the exploding of such shot would be a menace to himself or other person within the mine, or would cause undue wreckage of timbers or property, it shall be his duty to condemn such shot or drill hole, and refuse to ignite such shot or allow it to be ignited until such defective conditions are remedied.

(10) Any person violating any of the provisions of this section, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding fifty dollars or by imprisonment in the county jail not exceeding thirty days or by both such fine and imprisonment. (L. '12, Ch. 80, §7; Code '15, §3508, as amended.

88-622. Igniting shots. It shall be unlawful for any person other than a regular employed shot firer to ignite any shot within a coal mine where shot firers are employed, except in rock work entry or development

work where it is not deemed necessary to employ regular shot firers, or in case of absence or inability of the shot firer to attend to such duty, in which event some person who is experienced may be appointed by the mine boss to ignite shots. Any person violating any of the provisions hereof, shall, upon conviction, be fined not less than fifty dollars or more than five hundred dollars, or be punished by imprisonment for not less than thirty days or more than two years. (L. '12, Ch. 80, §8; Code '15, §3509.

88-623. Shot firer—Interfering with. Any person who shall, by violence, abusive language or innuendo, injure, humiliate or embarrass any shot firer because of said shot firer having condemned any shot hole, shall, upon conviction thereof, be punished by a fine of not exceeding one hundred dollars or by imprisonment for not less than thirty days or more than one year. (L. '12, Ch. 80, §9; Code '15, §3510.

88-624. Electrical apparatus—Interfering with. Any person who shall willfully remove, break or destroy any electric light bulb which is installed and in use, or to be used in or about any mine in the state, or shall cut, detach or in any manner interfere with any electric light or electric wire in any such mine without consent of the operator or person in charge shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment. (L. 12, Ch. 80, §10; Code '15, §3511.

88-625. Equipment—Interfering with. Any person who shall willfully obstruct or do any act which may interfere with the free passage of air through any ventilation circuit, or who shall willfully remove, break, destroy or damage any apparatus or equipment in or about any mine used for ventilation purposes, without consent of the person in charge of said mine, or any person who shall willfully remove, break, destroy, damage or otherwise molest any mine equipment for whatever purpose used in or about any mine, or impede the operation thereof, without consent of the person in charge of said mine, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. (L. '12, Ch. 80, §11; Code '15, §3512.

88-626. Setting fire to. Any person who shall willfully set on fire or ignite or cause to be set on fire or ignited any building equipment or anything whatsoever at or within any mine when any person is present in such mine at the time, shall be deemed guilty of a felony, and upon conviction thereof, shall be imprisoned for not less than five years or more than twenty-five years, provided, however, that if the life of any person be lost through the ignition or causing to be ignited of any such building, equipment or other thing as in this section provided, the person setting or causing to be set such fire shall be deemed guilty of murder in the first degree, and shall be dealt with according to the law at the

time in force prescribing the penalty for such offense. (L. '12, Ch. 80, §12; Code '15, §3513.

#### ARTICLE 7. MISCELLANEOUS

##### Section

88-701. Locations on private lands—Rules and regulations.

88-702. Trespass by live stock.

88-703. Preventing trespass—Notices.

88-704. Trespass—Penalty.

88-705. Pest house.

88-706. Termination of lease—Notice.

88-707. Terminating lease without notice—Liability.

88408. Smelters—Lead poisoning of employee—Duty of employer.

88409. Id.—Failure to provide—Penalty.

88-701. Locations on private lands--Rules and regulations. The owner or owners of lands within this state, the title to which has been vested by letters patent from the United States government, may make and file in the office of the county clerk of the county in which such lands are situated, such rules and regulations, not inconsistent with the laws of the United States and of this state, as they may see fit, governing the location and acquisition of mining claims thereon, which rules and regulations when so filed, shall be binding upon all parties, and a copy thereof duly certified by the county clerk shall be received and admitted as evidence in any suit or proceedings relating to such mining claims; such rules and regulations may be changed and supplemented from time to time by other rules and regulations filed in like manner, providing that such change shall not affect rights acquired prior thereto. (L. '97, Ch. 58, §7; C. L. '97, §2314; Code '15, §3514.

88-702. Trespass by live stock. The owner of any live stock in this state shall not be liable to the owner or his agent or any mining or mineral claim or millsite for damages done by way of trespass upon the same by said live stock other than for actual damage done to buildings, tents, mining supplies or other personal property situated thereon: Provided, That nothing in this section shall be construed as abridging or curtailing any of the existing rights of any such owner whenever any such mining or mineral claim or millsite may be used by the owners thereof, his tenant or lessee, as a live stock ranch. (L. 89, Ch. 105, §1; C. L. '97, §2327; Code '15, §3515.

88-703. Preventing trespass—Notices. Whenever the owner or lessee of any mining property in the state of New Mexico shall desire to operate the same and to prevent trespassers from entering thereon, such owner or lessees may post notices in English and Spanish in at least three public places upon said premises, warning all persons from entering upon said property without permission of the owner or lessee or his or their authorized agent or superintendent, which notices shall describe the boundaries of said property. (L. '05, Ch. 28, §1; Code '15, §3516.

88-704. Trespass—Penalty. After the posting of such notices, it shall be unlawful for any person to enter upon said premises without such permission, and any person violating the provisions of the preceding

section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by fine not exceeding fifty dollars or imprisonment in the county jail for a period not exceeding thirty days, or both such fine and imprisonment, in the discretion of the court: Provided, That this section shall not apply to any person or persons entering said premises in good faith for the purpose of ascertaining whether assessment work has been done, or for the purpose of making a location on government land. (L. '05, Ch. 28, §2; Code '15, §3517.

88-705. Pest house. That all mining companies or other corporations doing business in this state who *receive* any money from their employees for the purpose of employing a physician to attend to and render medical aid to any of said employees during sickness, or to enforce sanitary regulations for the benefit of said employees, are hereby required to erect and maintain a proper and suitable pest house not less than one and one-half miles from any town, mining camp, settlement or village where the headquarters of such company may be, or where the greater portion of said employees may labor, for the purpose of taking proper care of, and quarantining any and all of said employees who may be affected with any contagious or infectious diseases, and any company or corporation violating any of the provisions of this section upon proper proceedings and conviction thereunder, shall be fined as set forth in section 1741, and in addition thereto shall be liable for all damages occasioned by their violation of the law. (L. '99, Ch. 64. §2; Code '15, §3518.

88-706. Termination of lease—Notice. Hereafter any lease upon any mine, or portion of a mine, not given in writing, for a specified time, shall not be terminated until after notice of the date of such termination, given by the lessor to the lessee, no less than thirty days prior to such date of termination. (L. '91, Ch. 73, §1; C. L. '97, §2358; Code '15, §3519.

88-707. Terminating lease without notice—Liability. The lessor and the mine upon which any lease is terminated without such thirty days' notice, shall be liable to the lessee for all damages resulting from such termination: Provided, That nothing in this or the preceding section shall prevent the forfeiture and termination of any such lease without such notice when the lessee is working the leased ground in such manner as to damage the property. (L. '91, Ch. 73, §2; C. L. '97, §2359; Code '15, §3520.

88-708. Smelters—Lead poisoning of employee—Duty of employer. Whenever any employee of any corporation, person or persons engaged in the management and operation of any smelting works in the state of New Mexico, shall become disabled and rendered unfitted for labor by reason of lead poisoning, which said lead poisoning shall be the result and consequence of said employee's performance and proper discharge of said employee's duties in and about said smelting works, said employee shall be provided with and receive all proper medical attendance, medicines and sustenance during such disability, at the expense of

said corporation, person or persons so employing him. (L. '87, Ch. 34, §1; C. L. '97, §2337; Code '15, §3521.

88-709. Id.-Failure to provide-Penalty. If any such corporation, person or persons en-aged in the management and operation of any smelting works in the state of New Mexico shall fail to provide such employee with all proper medical attendance, medicines and sustenance during such disability of said employee, then the reasonable expense of providing such employee with all proper medical attendance, medicines and sustenance during such disability of said employee may be recovered from such corporation, person or persons so engaged in the management and operation of smelting works as aforesaid, in an action at law by and in the name of any person or persons rendering or providing such employee with the said medical attendance, medicines and sustenance. (L. 87, Ch. 34, §2; C. L. '97, §2338; Code '15, §3522.

## CHAPTER 132

### STATE LANDS

#### Article

1. General Provisions (in part).
4. Oil and Gas Leases. Sections 132-401 to 132-428.
5. Records of Oil and Gas Leases, Sections 132-501 to 132-508.

#### ARTICLE 1. GENERAL PROVISIONS

#### Section

- 132-101. State land office created-Commissioner of public lands-Powers.
- 132-102. Commissioner of public lands-Leases and sales-Recording-Powers-Reports.
- 132-110. Leases and sales-Erroneous payments-Correction.
- 132-112. Leases.
- 132-124. Coal land-Not to be sold-Leases-Permit to prospect.
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- 132-126. Id.-Lease-Renewal.
- 132-127. Id.-Lease-Tonnage-How determined.
- 132-128. Id.-Additional land.
- 132-129. Id.-Lease-Bond-Improvements not to be mortgaged.
- 132-130. Id.-Lease-Improvements-Disposition of.
- 132-131. Id.-Lease-Forfeiture.
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- 132-133. Id.-Locations-Area.
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- 132-140. Oil and gas lands-Leases-Term-Rent-Royalty-Forfeiture.
- 132-141. Saline, oil, gas lands-Not to be sold-Leases.
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- 132-151. Trespass and waste on leased lands.
- 132-154. Rights-of-way.
- 132-156. Leases-Grazing and agricultural-Mineral reserved.

132-101. State land office created—Commissioner of public lands—Powers. A state land office is hereby created, the executive officer of which shall be the commissioner of public lands, hereinafter called the commissioner, who shall have jurisdiction over all lands owned in this chapter by the state, except as may be otherwise specifically provided by law, and shall have the management, care, custody, control and disposition thereof in accordance with the provisions of this chapter and the law or laws under which such lands have been or may be acquired. (L. '12, Ch. 82, §1; Code '15, §5178.

132-102. Commissioner of public lands - Leases and sales - Recording - Powers - Reports. The commissioner shall have a seal with an appropriate device thereon; and such seal affixed to any contract, deed, lease or other instrument executed by the commissioner shall be prima facie evidence of the due execution thereof. Said commissioner shall receive and pass upon all applications for leasing or purchasing state lands and timber; and shall execute and authenticate for the state all deeds, leases, contracts or other instruments affecting such lands. All such leases, deeds, contracts and grants heretofore or hereafter executed shall be entitled to record with acknowledgment, and record thereof in the county in which the land described therein is situate shall be constructive notice to all persons of the contents thereof. (The section continues with other matter not pertinent to this work. (L. '12, Ch. 82, §2; Code '15, §5179.

132-110. Leases and sales - Erroneous payments - Correction. Any money erroneously paid on account of any lease or sale of state lands shall be repaid by voucher drawn by the commissioner presented to the state auditor who shall draw his warrant upon the state treasurer for the amount thereof, who shall pay same out of the fund to the credit of which said money was placed. (L. '12, Ch. 82, §10; Code '15, §5187.

132-112. Leases. All lands owned by the state shall be subject to lease as provided by law. (L. '12, Ch. 82, §12; Code '15, §5189.

132-124. Coal land - Not to be sold - Leases - Permit to prospect. Lands belonging to the state and known to contain deposits of coal shall not be sold, but shall be leased by the commissioner as hereinafter provided in this chapter. Any person, association of persons, or corporation may apply under the provisions of this chapter for an exclusive right to prospect for coal, for which purpose permit may be issued covering a specified area, conforming to legal subdivisions of not less than forty acres or more than six hundred and forty acres, and for a term not exceeding one year, and upon such terms and conditions as the commissioner may prescribe. (L. '12, Ch. 82, §24; Code '15, §5201.

132-125. Id.—Leases - Rental - Area. On or before the expiration of such permit, the commissioner may grant the applicant the right to develop and extract coal, in specified areas, for periods not exceeding five years, on such terms and conditions as are in accordance with customary methods of operation of coal mines and will be to the best in-

terests of the state; Provided, that rental therefor shall be on a royalty basis, which shall be not less than eight cents per ton, payable quarterly. The minimum sum to be paid to the state under such lease shall be as follows: for the first year, not less than three dollars per acre in the aggregate for the tract leased; second year, not less than four dollars per acre; and for each year thereafter during the life of the lease, not less than five dollars per acre. Any such lessee shall have a right to extend his development into, and extract coal from, any state lands contiguous or adjacent to the lands he has leased, and for such purpose a lease may be granted upon not exceeding six hundred and forty acres additional, when such additional area is tributary to the shaft, slope or other opening through which the lessee has developed or is developing the first acquired lease, Provided, that there shall not at the time be any other such lessee of such contiguous or adjacent lands. (L. '12, Ch. 82, §25; Code '15, §5202.

132-126. Id.—Lease - Renewal. At the expiration of any such lease, the lessee shall have the preference right of renewal, subject to such laws as may be in force at the expiration of his lease. (L. '12, Ch. 82, §26; Code '15, §5203.

132-127. Id.—Lease - Tonnage - How determined. The commissioner may employ some competent person, who shall measure the cubical contents of every opening from which coal has been extracted in every leased coal mine, and shall calculate the tonnage of coal extracted therefrom, using the specific gravity of the coal as a basis of calculation, and shall check the returns made by the lessee against such calculation, allowing a reasonable percentage for the usual losses in mining and handling the production, and shall deduct for such bands of bone or rock as may be included in the coal seam, but unfit for fuel. (L. '12, Ch. 82, §27; Code '15, §5204.

132-128. Id.—Lease - Additional land. The commissioner may lease to the lessee of any state coal lands a tract of state lands, adjacent or contiguous thereto, not exceeding three hundred and twenty acres, when such adjacent or contiguous lands are necessary to the development or operation of the coal lands leased, or for trackage, yards, dwellings, offices, or for any purpose incidental or necessary to the development or operation of the coal lands so leased. Any such lease shall terminate at the same time as the lease upon the coal lands. The rental for the land, prescribed to be leased by this section, shall be \$3.00 per acre per annum. Provided, that should such leased land be underlain with coal, the coal therein shall be subject to lease, and the lessee first mentioned shall not hinder nor obstruct any other lessee from extracting the coal thereunder, and shall surrender so much of said premises to any such lessee as may be necessary for mine equipment or building used in the immediate process of extraction of the coal; and the later lessee shall pay damages to the earlier as same may appear, be agreed upon, or as determined by arbitration in the manner prescribed by law. (L. '12, Ch. 82, §28; Code '15, §5205.

132-129. Id.—Lease - Bond - Improvements not to be mortgaged. The lessee of coal lands shall not mortgage any improvements placed by him on said lands, and any such mortgage shall be null and void. A lease to develop and dispose of coal shall not be given until the applicant has filed a good and sufficient bond, to be approved by the commissioner, conditioned for the faithful performance of the terms of such lease. (L. '12, Ch. 82, §29; Code '15, §5206.

132-130. Id.—Lease - Improvements - Disposition of. On the termination of a coal lands lease, the lessee shall have the right to dispose of such buildings upon such lands as, in the opinion of the commissioner, may be safely removed without injury to the lands, but the retiring lessee shall forfeit so much of his improvements as to the commissioner may deem necessary to withhold; Provided, that if the commissioner shall, at any time thereafter lease the premises and receive payment for such improvements so withheld, the amount so received shall be paid to the former lessee. (L. '12, Ch. 82, §30; Code '15, §5207.

132-131. Id.—Lease - Forfeiture. Failure by the lessee to comply with the terms and conditions of any such lease, shall work a forfeiture thereon at the option of the commissioner, as provided in this chapter with reference to other forfeitures. (L. '12, Ch. 82, §31; Code '15, §5208.

132-132. Mineral lands - Leases. The commissioner may execute leases and contracts for the prospecting and development of any lodes or deposits of metals or minerals in rock in place upon or in any land now belonging to the state or which it may hereafter acquire. (L. '12, Ch. 82, §32; Code '15, §5209.

132-133. Id.—Locations - Area. Any location upon lands of the state containing any lode or deposit of metals or minerals in rock in place shall be in the form of a rectangular parallelogram, except in case of a fractional area between prior appropriated lands, and such location shall not exceed 1500 feet in length by 600 feet in width in one lot, location or claim; and the right initiated by such location to extract metal bearing ores therefrom shall be limited by the side and end lines projected vertically downward. Provided, that for the purpose of this chapter it shall be necessary that the angles, at the corner boundaries of such lots, locations or claims, shall be absolutely correct angles of ninety degrees, but approximately right angles, to be corrected when surveyed, but without infringing upon adjoining lots, locations or claims. (L. '12, Ch. 82, §33; Code '15, §5210.

132-134. Id.—Lease - Survey. Before any lease shall be issued covering any mining claim located upon state lands, the location or claim shall be surveyed by some competent surveyor designated by the commissioner. As far as possible the survey shall conform to the original boundaries marked by the location. The survey shall be tied by a line, giving the distance and direction to the nearest section or quarter section corner, U. S. survey; or if the nearest quarter section corner is more than a mile distant, then the tie shall be made to some permanent and con-



spicuous natural object, or to some durable monument, either of which shall be marked as a witness object for said claim. A reasonable compensation (consistent with the labor performed and expense incurred), shall be paid to the surveyor by the locator.

The surveyor shall file a plat of the survey together with a copy of his field notes, in the office of the commissioner. A copy of such plat and field notes shall be delivered to the locator by the surveyor making such survey. (L. '12, Ch. 82, §34; Code '15, §5211.

132-135. Id.—Location notice. Subject to the provisions of this chapter, any person may make location upon, and have the right to prospect lodes or deposits as hereinabove in this chapter described. Such locations shall be made in the manner prescribed by law applicable to the location of lode claims. A copy of any location notice made as aforesaid shall be filed in the state land office, for the filing of which a fee of one dollar shall be paid. Fees thus received shall be credited to the state lands maintenance fund. Upon filing of such copy the commissioner shall issue a permit to the locator granting him the exclusive right to prospect for ores or metals within the limits of said location for a period of ninety days from date of said location. (L. '12, Ch. 82, §35; Code '15, §5212.

132-136. Id.—Discovery shaft - Lease - Term - Royalty. If within said period of ninety days, the locator shall sink a shaft at least ten feet in depth upon the location or shall drive a tunnel, adit or open cut in such location a depth of not less than ten feet below the surface, and shall discover ore in rock in place upon the location, upon application therefor the commissioner shall execute in favor of such locator, or his assigns, a good and sufficient lease, granting the right to mine and extract ores from said location during a term of not exceeding five years from the date of such lease, subject to the payment of an annual rental of twenty-five dollars, payable annually in advance, in addition to which the lessee or his heirs or assigns shall pay to the commissioner a royalty of two per centum of the cash returns from smelter, mill or other reduction process, from ores extracted from said location or claim, less transportation and smelting or reduction charges, accounting to be made for each shipment when returns are received by lessee, or at choice of commissioner to be paid by smelting company or reduction works. Provided, that on deposits of precious or semi-precious stones in rock in place, a royalty of five per centum of the gross proceeds shall be paid by the lessee or his assigns, without any deduction for transportation or other charges. (L. '12, Ch. 82, §36; Code '15, §5213.

132-137. Id.—Lessee, fraud by. Any lessee of mineral lands under this chapter who shall conceal, or attempt to conceal any of such returns, or who shall in any manner defraud, or attempt to defraud, the state out of any such royalty shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than three years, or

both; and his lease shall be forfeited in the manner hereinbefore provided in this chapter. (L. '12, Ch. 82, §37; Code '15, §5214.

132-138. Id.—Commissioner - Inspect records. The commissioner, or his representative, shall have the right to inspect all records or books of account pertaining to the mining, extraction, transportation, reduction and returns of all ores taken from such leased lands. (L. '12, Ch. 82, §38; Code '15, §5215.

132-139. Id.—Lease - Renewal - Preference. Any lessee of such mineral lands, or the heirs, successors or assigns of such lessee, shall have a preferential right to a renewal lease, or to purchase during the life of such lease, provided all terms and conditions of the expiring lease shall have been fully performed. In case of purchase by another, one year's notice to vacate shall be given to the lessee. (L. '12, Ch. 82, §39; Code '15, §5216.

132-140. Oil and gas lands - Leases - Term - Rent - Royalty Forfeiture. The commissioner may execute leases for the extraction of petroleum and natural gas on and from any state lands, prescribing such terms and conditions as he may deem advisable, but no such lease shall be for a term exceeding five years, subject, however, to right of renewal on such terms and conditions as the commissioner may prescribe. No such lease shall be made for less than one hundred (\$100) dollars, and in addition thereto said lease shall provide for royalty to be paid to the state of not less than five per centum of the gross value of all petroleum and natural gas products extracted during the term of the lease, payable quarterly. Failure on the part of any such lessee to comply with the terms and conditions of his lease shall work a forfeiture and cancellation thereof as herein provided. (L. '15, Ch. 73, §4, amending Code '15, §5217.

132-141. Saline, oil, gas lands - Not to be sold - Leases. State saline lands and state lands known to contain valuable minerals, petroleum or natural gas in paying quantities, and sections of state lands adjoining lands upon which there are producing mines, oil wells or gas wells, or which are known to contain valuable minerals, petroleum or natural gas in paying quantities, shall not be sold, but may be leased as provided in this chapter. (L. '12, Ch. 82, §40a; Code '15, §5218.

132-142. Salt from saline lands - Leases and royalties. The commissioner may execute leases for the extraction of salt from the saline lands and lakes belonging to the state. Such leases shall provide for a royalty on all salt extracted therefrom of not less than ten per cent of the actual sale price at the place of extraction. Said royalties shall be paid quarterly and accurate record shall be kept of all sales made. All such leases shall be made on the further condition that the lessee shall not be permitted to sell unrefined salt at the place of extraction for more than \$5.00 per ton. All leases made hereunder shall contain such conditions and shall provide for the cancellation of the lease by the com-

missioner for the breach thereof. (L. '23, Ch. 99, §1, amending Code '15, §5219.

132-143. Shale and clay deposits - Leases - Terms. The commissioner may also execute leases for the mining, extraction or disposition of shale, clay or other natural deposits in or upon, or products of state lands, not otherwise provided for in this chapter, upon such terms and conditions as he may deem for the best interests of the state, not repugnant to law. Any mortgage upon improvements on any such lands so leased shall be void. (L. '12, Ch. '82, §42; Code '15, §5220.

132-144. Mineral lands - How developed. All lands under lease for extraction of coal or other deposits, shall be developed and operated in a workmanlike manner and with a view to development of the whole area tributary to the shafts, drifts, tunnels or other openings made, and failure of the lessee or his assigns to observe this provision shall be cause for cancellation and forfeiture of the lease thereon in the manner herein-before provided in this chapter. (L. '12, Ch. 82, §43; Code '15, §5221.

132-150. Depredations on - Penalty. Any person who shall cut down, remove, destroy or injure, or who shall take, remove or carry away, any timber, trees or fire wood standing, growing or lying upon any state lands, or who shall extract or remove, or attempt to extract or remove, from any state lands, any \*one, minerals, gas, salt or other natural products or deposit, or any lessee who shall permit the same to be done, without authority from the commissioner, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in the preceding section, and in addition thereto shall forfeit and pay to the state an amount double the value of the material so cut, removed, destroyed, injured or extracted. (L. '12, Ch. 82, §49; Code '15, §5227.

132-151. Trespass and waste on leased lands. Every lessee of state lands shall protect the land leased by him from waste or trespass by unauthorized persons, and failure so to do shall subject his lease to forfeiture and cancellation in the manner hereinbefore prescribed in this chapter, and the attorney general may bring suit for damages caused by any such waste or trespass. (L. '12, Ch. 82, §50; Code '15, §5228.

132-154. Rights-of-way. The commissioner may grant rights-of-way and easements over, upon or across state lands for public highways, railroads, tramways, telegraph, telephone and power lines, irrigation works, mining, logging and for other purposes, upon payment by the grantee or grantees of the price fixed by the commissioner, which shall not be less than the minimum price for the lands, used, as fixed by law. (L. '12, Ch. 82, §53; Code '15, §5231.

132-156. Leases - Grazing and agricultural - Mineral reserved. In all leases of state lands for grazing or agricultural purposes there shall be inserted a clause reserving the right to execute leases for mining purposes thereon, or for the extraction of petroleum, natural gas, salt, or other deposit therefrom, and the right to sell or dispose of any other

natural surface products of such lands other than grazing, agricultural or horticultural products; also a clause reserving the right to grant rights of way and easements for any of the purposes mentioned in section 5231 (132-154). (L. '12, Ch. 82, §55; Code '15, §5233.

#### ARTICLE 4. OIL AND GAS LEASES

##### Section

- 132-401. Commissioner of public lands may issue leases upon terms that he deems best.  
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132-401. Commissioner of public lands may issue leases upon terms that he deems best. The commissioner of public lands, hereinafter referred to as the commissioner, is hereby authorized to execute and issue in the name of the state of New Mexico as lessor, leases for the exploration and development of and production of oil and natural gas from any lands belonging to the state of New Mexico or held in trust by the state under grant from the United States and including lands which have been or may hereafter be sold by the state with reservation of the minerals in the land, such leases to be issued upon such terms and conditions as the commissioner may deem to be to the best interests of the state and not inconsistent with the provisions of this act. (L. '29, Ch. 125, §1.

132-402. Terms of Lease. The term of all oil and gas leases issued under the provisions of this act shall be five years and as long thereafter as oil or gas in paying quantities is produced from the leased lands, subject to the provisions of section 3 (132-403) of this act; Provided, however, that if for any reason production of oil or gas from the leased lands shall cease after the primary term of five years, the lessee shall be

entitled to resume drilling operations on the said land within such reasonable time as may be prescribed by the commissioner and if such drilling operations shall be continued with reasonable diligence and the production of oil or gas in paying quantities shall result therefrom, then the said lease shall remain in force as long thereafter as oil or gas in paying quantities is or can be produced from the leased lands. All such leases shall provide for the delivery to the state in the pipe line to which the lessee may connect his wells, of a royalty of one-eighth of the oil and gas produced, saved and marketed from the leased land, or the equivalent proportion of the market value of such oil and gas in the field at the time of production, at the option of the commissioner; Provided, however, that no royalties shall be payable from oil or gas used in operations on the land for the development of the lands for oil and gas purposes and producing oil and gas therefrom. The leases shall provide for the payment of a reasonable annual rental to be fixed by the commissioner and designated in the lease, which shall not be less than one hundred (\$100.00) dollars for the first year for all of the lands in any lease. (L. '29, Ch. 125, §2.

132-403. Preference of lessees for new lease. Lessees and assignees of oil and gas leases on state land who have not made a discovery of oil or gas in paying quantities within five years from the date of the lease and who are not in default in complying with the terms of their leases shall be given the preference over any and all other applicants for a new lease upon said lands at the rentals prevailing in the district in which the lands are situated, and whenever any such lessee or assignee, during the original or primary term of the original lease whether such lease was issued under this or prior acts, shall have made substantial expenditures in good faith on the lands covered by such lease, for the purpose of discovering and developing oil or gas thereon, such lessee or assignee shall be entitled to and shall receive from the commissioner an extension of the original or primary term of his lease for an additional period of five years. Applications for lease or extension under this section must be filed with the commissioner prior to the expiration of any existing lease and in case of any application for extension claimed under this section on account of expenditures made on the lands, satisfactory proof of such expenditures must be shown at the time of filing such application or within such reasonable time as the commissioner may require. (L. '29, Ch. 125, §3.

132-404. Assignment of leases. All leases issued under the provisions of this act shall be assignable in whole or in part; Provided, however, that no assignment of an undivided interest in the lease or any part thereof, or any assignment of less than a legal subdivision shall be recognized or approved by the commissioner. The term "legal subdivision" as used in this act shall be construed in its ordinary sense as used and recognized in the general land office of the United States and in the state land office of New Mexico. The assignments provided for herein shall be executed and acknowledged in the manner prescribed for conveyances of real estate in this state and shall be filed in duplicate in the office of

the commissioner who shall retain one copy of the said assignment in his office as a public record and shall record same in permanent form in his office as a public record and shall return the duplicate copy to the person entitled thereto. The approval of the commissioner shall be noted upon both copies of the said assignment. The commissioner shall prescribe the form to be used for such assignments and shall fix a reasonable fee for the filing, recording and approval of same. The commissioner shall have the right to refuse approval of any assignment not executed in proper form or by the proper person or persons, or when the lease is not in good standing as to the assigned tracts, or when litigation is pending affecting the lease or the interest of any person therein. Upon approval by the commissioner of an assignment the assignor shall stand relieved from all obligations to the state with respect to the lands embraced in the assignment and the state shall likewise be relieved from all obligations to the assignor as to such tract or tracts, and thereupon the assignee shall succeed to all of the rights and privileges of the assignor with respect to such tracts and shall be held to have assumed all of the duties and obligations of the assignor to the state as to such tracts. (L. '29, Ch. 125, §4.

132-405. Applications for leases. Applications for the issuance of any lease authorized by this act shall be executed under oath by the applicant or by his agent or attorney duly authorized in writing, or by any officer or attorney in fact of the corporation if the application be made by a corporation. The application shall be accompanied by the amount offered by the applicant as the bonus, if any, and rental for the first year. The form of the application shall be prescribed by the commissioner and all applications shall contain a description of the lands by legal subdivisions upon which the lease is desired, together with such data and information concerning development on and in the vicinity of the lands as may reasonably be required by the commissioner. The commissioner may also require any applicant for a lease to file in the office of the commissioner an appraisalment in such form as the commissioner may require, showing the value of the lands for oil and gas purposes, such appraisalment to be made under oath by one or more disinterested persons having personal knowledge of the facts set forth in the appraisalment. The commissioner shall not be bound by the statements contained in any such application or appraisalment. No lease shall be issued without the filing of an application therefor as prescribed herein, and no lease shall be issued for less than the amount offered by the applicant as a bonus, if any, and rental for the first year, and if an appraisalment of the land for oil and gas purposes be required as provided herein, then no lease shall issue for less than the value of same as shown by such appraisalment. (L. '29, Ch. 125, §5.

132-406. Annual rental. The commissioner shall prescribe by regulation the annual rental charge which shall be specified in leases issued under the provisions of this act, which said annual rental charge shall be a reasonable rental, but in no case less than five cents per acre,

subject, however, to the provisions of section 2 (132-402) of this act providing for a minimum rental for the first year. (L. '29, Ch. 125, §6.

132-407. Restricted district. There is hereby created a restricted district comprising townships 1 to 10 south, ranges 34 to 38 east, townships 11 to 20 south, ranges 26 to 39 east, and townships 21 to 26 south, ranges 25 to 39 east. No oil and gas leases upon any state lands within said restricted district shall be made except upon competitive bidding by sealed bids or at public auction, as hereinafter provided. No lands within the boundaries of said restricted district shall be eliminated therefrom by the commissioner of public lands, but said commissioner shall from time to time, when the interests of the state require such action, extend the boundaries thereof and create other restricted districts and areas within which oil and gas leases may be made only upon competitive bidding by sealed bids or at public auction. (L. '29, Ch. 125, §7.

132-408. Auction sale of leases. The commissioner of public lands shall hold a sale of oil and gas leases which are subject to competitive bidding or public auction at his office on the tenth day of each month, or on the next business day following where the tenth falls on Sunday or legal holiday, and shall offer for lease such state lands as may be available in designated tracts to the highest and best bidder therefor. All sales of leases upon competitive bidding or at public auction shall be governed by regulations issued by the commissioner and subject to the provisions of this act. Notice of such sales shall be given by posting in a conspicuous place in the state land office not less than ten (10) days before the date of the sale, a notice of same specifying the day and hour when, and the place where the sale will be held, a description of the lands to be offered for lease and the minimum bid which will be accepted by the commissioner for the lease offered. The notice shall also contain such other information as the commissioner may deem advisable or necessary. The sale may be conducted through sealed bids or by public auction or by both methods combined, but the method of conducting the sale shall be stated in the notice of sale required herein. The sale may be held at the option of the commissioner either in the office of the commissioner or at the county seat of the county in which the lands or the greater part of same are located. The commissioner is authorized to give such additional notice of the sales provided for herein, either by publication in newspapers or by mailing copies of the notice of sale to interested persons, as he may deem necessary to give publicity to such sales. The commissioner shall have the right to reject all bids received for the lease upon any tract embraced in a sale conducted by competitive bidding or at public auction or by both methods combined, but shall not reject any bids made in conformity with regulations and the provisions of this act without rejecting all bids applicable to the same tract or tracts of land. Leases sold at sales as provided herein shall be awarded to the respective bidders offering the largest bonus. The successful bidders shall be required to file a proper application for the leases purchased and to complete the payment of any balance due on their bids before the closing of the office of the commissioner on the day of sale. (L. '29, Ch. 125, §8.

132-409. Lease where no bids at sale. If no bid be received for any leases offered by notice of sale as provided herein, then the tract or tracts upon which no bid is received may be leased by the commissioner upon application therefor made after such sale but on the same day, at not less than the minimum amount specified in the notice of sale. (L. '29, Ch. 125, §9.

132-410. Commissioner may withhold lands from lease. Nothing contained in this act shall be construed as requiring the commissioner to offer any tract or tracts of land for lease but the commissioner shall have power to withhold any tract or tracts from leasing for oil and gas purposes if in his opinion the best interests of the state will be served by so doing. (L. '29, Ch. 125, §10.

132-411. Cancellation of leases for non-payment or non-performance. The commissioner is hereby authorized to cancel any lease issued as provided herein for non-payment of rentals or non-performance by the lessee of any provision or requirement of the lease; Provided, however, that before any such cancellation shall be made the commissioner must mail to the lessee or assignee by registered letter, addressed to the post office address of such lessee or assignee shown by the records of the office of the commissioner, a notice of intention to cancel said lease, specifying the default for which the lease is subject to cancellation, and if within thirty (30) days after the mailing of said notice to the lessee or assignee he shall remedy the default specified in such notice, then no cancellation of the said lease shall be entered by the commissioner but otherwise the said cancellation shall be made and all rights of the lessee or assignee under the lease shall thereupon terminate. The mailing of the notice as provided in this section shall constitute notice of the intention of the commissioner to cancel the lease and no proof of receipt of such notice shall be necessary or required. (L. '29, Ch. 125, §11.

132-412. Provisions of lease. The commissioner is authorized to insert in the leases issued under the provisions of this act, such general provisions as are customary and proper for the protection of the rights of the state and of the lessees and of the owners of the surface of the leased lands and not inconsistent or in conflict with the provisions of this act and of other laws. (L. '29, Ch. 125, §12.

132-413. Rules and regulations. The commissioner is hereby authorized and required to prescribe and publish for the information of the public, all rules and regulations necessary for carrying out the provisions of this act, and he may amend or rescind any rule or regulation promulgated by him under the authority contained herein; Provided, however, that no rule or regulation or amendment of same, or any order rescinding any rule or regulation shall become effective earlier than fifteen (15) days after the promulgation of same, and a copy of the proposed rule, regulation, amendment or order shall be posted in a conspicuous place in the office of the commissioner for a period of at least fifteen (15) days prior to the taking effect of same. (L. '29, Ch. 125, §13.



132-414. Leases in effect upon passage of this act. All oil and gas leases issued by the commissioner prior to the effective date of this act and in substantial conformity with the statutes of the state then in force which have not expired or which have not been legally cancelled for non-performance by the lessee or assignee, are hereby declared to be valid and existing contracts with the state of New Mexico according to their terms and provisions, and the obligation of the state to observe and conform to the terms and provisions of such leases is hereby recognized, and the commissioner is hereby directed to accept and recognize all such leases according to their express terms and provisions; Provided, however, that in any case where two or more persons claim a valid lease on the same tract or tracts of land under the provisions of this section, then the rights of the conflicting claimants shall be determined by suit in the manner prescribed in section 17 (132-417) of this act. Any lease recognized and confirmed by this section which was issued prior to March 23, 1927, may be relinquished to the state by the lessee or assignee and new leases in the form authorized herein shall be issued in lieu of same and without bonus therefor, but the new lease so issued shall provide for the same annual rental as is fixed by regulations in force at the time such relinquishment is filed which would apply to such lands and the provisions of section 7 (132-407) of this act shall not apply in such cases. (L. '29, Ch. 125, §14.

132-415. Id.—Amendments of lease if issued after March 22, 1927. Any oil or gas lease issued by the commissioner prior to the effective date of this act and subsequent to March 22, 1927, may be amended by the commissioner pursuant to a written agreement with the lessee or assignee so that the term of such lease shall conform to the term specified by sections 2 (132-402) and 3 (132.403) of this act. (L. '29, Ch. 125, §15.

132-416. Jurisdiction of district courts to alter decisions of the commissioner. Any person or corporation aggrieved by any ruling or decision of the commissioner affecting the interest of such person or corporation in any lease issued under, or affected by the provisions of this act, may apply to the district court of the county in which the lands or the greater part thereof affected by said order or decision, are located, for an order directed to the commissioner requiring him to show cause, if any cause he may have, why the said order or decision should not be cancelled or set aside. The district court of such county shall have jurisdiction as a court of equity to receive such application for order to show cause and to issue such order and to cancel or set aside the order or decision of the commissioner complained of by the petitioner, provided that not less than twenty (20) days shall be allowed to the commissioner for making return to any order to show cause which may be issued as provided herein. Any other person interested in the outcome of the controversy may upon proper showing to the court be made a party to or be permitted to intervene in the proceeding and have his rights in the subject matter determined. Appeals to and writs of error from the

supreme court shall lie from the decisions of the district court in such cases as in other cases, provided that the application therefor be filed not less than thirty (30) days after the entering of the decision of the district court. (L. '29, Ch. 125, §16.

132-417. Id.—Determination of controversies. The district court of the county in which the lands or the major portion thereof may be located which are embraced in any lease issued under or affected by the provisions of this act, shall have original exclusive jurisdiction as a court of equity for the determination of controversies between persons or corporations respecting their rights in, or claim under such lease, and no such controversies shall be considered or determined by the commissioner of public lands. Appeals to and writs of error from the supreme court shall be allowed in such cases, as provided in section 16 (132416) herein. (L. '29, Ch. 125, §17.

132-418. Id.—Manner of proof of commissioner's records. In the proceedings above described in sections 16 (132-416) and 17 (132417) of this act, records, books and papers in the office of the commissioner of public lands shall be proven by copies thereof, duly certified by the commissioner, or by certified transcript of such records and proceedings as may be necessary, which shall be admissible in evidence in such cases, and no original book, record or paper shall be removed from the office of the commissioner of public lands except upon order of a district court after a special application therefor. (L. '29, Ch. 125, §18.

132-419. Constitutional construction. If any provision of this act shall be declared invalid. then such invalidity shall not affect the remaining valid provisions of the act. it being the intent that all of the valid provisions hereof shall be given full force and effect regardless of the invalidity of any other provisions. (L. '29, Ch. 125, §19.

132-420. Repeal. Chapter 46 of the session laws. of 1927 and all other acts and Darts of acts in conflict or inconsistent with the provisions of this act are hereby repealed: Provided, however, that applications for oil and gas leases on file in the office of the commissioner and not disposed of when this act takes effect shall be disposed of and leases issued pursuant thereto in accordance with statutes and regulations in force at the time of the filing of the respective applications. (L. '29, Ch. 125, §20.

132-421. Lessees to purchase improvements from owner thereof. If mineral lands upon which improvements have been made shall be leased in conformity with law to other than the owner of such improvements thereon, then such purchaser or such new lessee shall pay to the owner thereof the value of such improvements at an agreed price with the owner thereof; and if such owner of improvements and such new lessee or purchaser are not able to agree upon a value, the value shall be determined by a board of three arbitrators, one to be selected by the owner of the improvements, one by the commissioner of public lands, and the third by the two so selected. The word "improvements" shall be construed to mean surface improvements, machinery, and other equip-

ment not removed from said lands under the provisions of section 9 used in the operation of the plant on such land, and work performed in the development of the property for operation and mining. No lease shall be issued to any applicant other than the owner of such improvements until such applicant files with the commissioner of public lands a receipt showing payment in full of the value of such improvements as agreed upon between such applicant and the owner of the improvements, or determined by the board of arbitrators; or until such applicant shall pay to the commissioner of public lands the value of such improvements so determined. If payment is made to the commissioner of public lands it shall be at once delivered to the owner of the improvements. (L. '25, Ch. 137, §3.

132-422. Log of wells and specimen of drill cuttings—Payment of royalties. The lessee shall be required to submit to the commissioner of public lands with each and every royalty payment, a correct statement showing the amount of oil or gas produced and saved since the last report and the market value thereof, except oil and gas used in developing and operating said lease. All books and accounts of the lessee pertaining to the production, transportation, and marketing of the output from the leased lands shall be open to the examination and inspection at all reasonable hours by the commissioner of public lands or his representative. The value of any unpaid royalty, and any sum due the state upon any lease, shall become a prior lien upon the production from the leased premises and the improvements situated thereon. The lessee shall furnish to the commissioner of public lands, as and when called for by him, a full, accurate and complete log, and also a complete specimen of drill cuttings of any and all wells drilled by lessee on the leased lands. (L. '25, Ch. 137, §4.

132-423. Lease of lands sold on contract. State lands sold heretofore, or which may be sold hereafter on any deferred payment plan under contract containing a reservation to the state of the minerals therein contained, may be leased by the state for oil, gas, or other mineral development or exploitation, as provided by law in the same manner as other state lands.

Provided, that before any lessee of minerals on state lands so sold shall commence development or operations thereon such lessee shall execute and file with the commissioner of public lands a good and sufficient bond or undertaking in an amount to be fixed by said commissioner, but not less than two thousand dollars (\$2,000.00), in favor of the state of New Mexico for the use and benefit of the purchaser holding purchase contract or deed to such lands on which such development is about to be commenced, his grantees or successors in interest to secure the payment for such damage to the livestock range, water, crops, or tangible improvements on such lands as may be suffered by such purchaser or his successors in interest by reason of such development, use and occupation of such lands by such lessee.

And provided further, that if any such purchaser shall file with the commissioner of public lands a waiver duly executed and acknowledged

by him of his right to require such bond, such development, occupation and use of the lands by a mineral lessee may be permitted without the bond herein required. (L. '29, Ch. 45, §1, amending L. '25, Ch. 137, §5.

132-424. Mineral reservation on lands classified as mineral. Where state lands have been sold heretofore, or may be sold hereafter on any deferred payment plan under contract containing a reservation to the state of the minerals therein contained and before the payment of the full amount of the purchase price shall have been made or patent issued, the land shall be known, classified or reported as mineral lands, or where by reason of proximity to known mineral lands or productive oil and gas wells, the commissioner of public lands shall deem such lands to be of probable mineral character and valuable as such, he shall make proper notation on the records of his office designating the said lands as mineral lands. The commissioner of public lands is hereby authorized to issue to the purchaser of any such mineral land or lands so classified as mineral, upon full payment of the purchase price according to the terms of the contract, a limited patent only, which shall contain reservation to the state of New Mexico to all the minerals in the said lands, together with the right to the state or its grantees, to prospect for, mine and remove the same; and such lands shall, notwithstanding the issuance of such patent, be subject to lease under the provisions of this act;

Provided, that no lease for such lands shall be issued and no person shall be authorized to prospect for, mine or remove any minerals until an indemnity bond shall be given or waiver of the same filed, as set forth in section 5 (132-423) of this act. (L. '25, Ch. 137, §6.

132-425. Assignment of leases. All oil and gas leases issued under the provisions of this act may be assigned in whole or in part with the consent and approval of the commissioner of public lands, and after such approval the assignee shall become entitled to all the rights and privileges and be bound by all the obligations of the lease only in so far as the lands assigned are concerned. (L. '25, Ch. 137, §7.

132-426. Lessee may remove improvements upon cancellation of lease. In the event of the cancellation or forfeiture of any lease issued under the provisions of this act from any cause whatever, the lessee or assignee shall be permitted to remove any and all improvements from the lands which lessee can remove without injury thereto, Provided, however, that the commissioner of public lands may require that all or any part of the casing shall be left in any well which is productive of water when he shall *deem* it to the interest of the state to maintain said well, or wells, for water, and in such case the lessee shall be paid the reasonable value of the casing therein. (L. '25, Ch. 137, §8.

132-427. Rules and regulations. The commissioner of public lands shall be, and he hereby is, authorized and empowered to adopt such uniform and reasonable rules and regulations and to prepare such uniform forms of leases as he may deem necessary to carry into effect the terms

and provisions of this act and not inconsistent herewith. (L. '25, Ch. 137, §10.

132-428. Construction clause. Should any of the provisions of this act be declared invalid by a court, such act of the court shall not affect any other provision herein unless so expressly declared by such court, it being the intention of the legislature to give effect to the valid provisions of this act regardless of the invalidity of any other provision. (L. '25, Ch. 137, §12.

#### ARTICLE 5. RECORDS OF OIL AND GAS LEASES.

##### Section

132-501. Records of commissioner of public lands constructive notice.

132-502. Acknowledgment of parties to instruments.

132-503. Contracts may be filed in state land office.

132-504. Commissioner to install system of records and books.

132-505. Id.—Tract book system.

132-506. Id.—Make rules and regulations.

132-507. Fees for filing and recording.

132-508. Repealing clause.

132-501. Records of commissioner of public lands constructive notice. All leases and other instruments executed or issued by the commissioner of public lands, hereinafter referred to as the commissioner, pertaining to oil and gas rights in state lands, and including assignments of such rights when approved by the commissioner, shall be made in duplicate and one copy thereof retained in the files of the state land office and recorded in full by the commissioner in suitable books provided by him and kept for such purpose. Such filing and recording shall be constructive notice to all persons of the contents of such instruments from the date of such filing and it shall not be necessary to record such instruments in the county where the lands affected thereby are located, and the filing and recording in the office of the commissioner as provided herein shall have the same force and effect as the filing and recording of such instruments in the county where the lands affected thereby are located would now have under existing statutes. (L. '25, Ch. 68, §1.

132-502. Acknowledgment of parties to instruments. All such instruments shall be acknowledged by the parties thereto except that the commissioner shall not be required to acknowledge any such instrument but shall authenticate his signature to same with his seal of office. (L. '25, Ch. 68, §2.

132-503. Contracts may be filed in state land office. Contracts between persons or corporations owning or holding oil and gas rights in state lands, when duly acknowledged by the parties thereto, may be filed for record and recorded in the state land office in the same manner and with the same force and effect as the instruments referred to in the foregoing sections. (L. '25, Ch. 68, §3.

132-504. Commissioner to install system of records and books. The commissioner is authorized and directed to provide and install as

soon as possible after the passage of this act a full and complete system of records and books in his office for carrying out the provisions of this act and shall provide for the full and complete indexing of such records, and such records and indices shall be open for inspection by the public during the business hours of the office under such reasonable rules and regulations as may be prescribed by the commissioner. (L. '25, Ch. 68, §4.

132-505. Id.—Tract book system. The commissioner shall also install in his office as soon as practicable a tract book system for the mineral lands of the state on which any oil and gas rights have been granted by him, which tract books shall be separate from the tract books pertaining to grazing rights or purchase contracts, and all instruments on file in his office pertaining to oil and gas rights shall be noted on such tract books in connection with the tract or tracts affected thereby, and such notations shall show the nature of the instrument, its date, the parties thereto, the date of filing, and the book and pages where recorded. (L. '25, Ch. 68, §5.

132-506. Id.—Make rules and regulations. The commissioner is authorized to make, publish and enforce all necessary and reasonable rules and regulations for carrying out the purposes and provisions of this act and shall take necessary precautions for the safekeeping and protection of the instruments and records referred to in this act. (L. '25, Ch. 68, §6.

132-507. Fees for filing and recording. The commissioner shall prescribe adequate, reasonable, and uniform fees to be charged for the filing and recording of instruments under the provisions hereof and all such fees shall be covered into the maintenance fund of his office; and all reasonable and necessary expenditures for carrying out the provisions of this act shall be made from such maintenance fund and the same are hereby directed and authorized to be made. (L. '25, Ch. 68, §7.

132-508. Repealing clause. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall apply to all instruments now in file in the state land office and which pertain to oil and gas rights in state lands, but nothing contained herein shall be construed to deprive any person or corporation of any valid and existing right acquired in good faith through compliance with or the operation of any law in effect prior to the passage of this act. (L. '25, Ch. 68, §8.

## CHAPTER 151

### WATERS

#### ARTICLE 11. SALT LAKES

##### Section

##### 151-1101. Salt Lakes.

151-1101. Salt Lakes. All the salt lakes within this state, and the salt which has, or may accumulate on the shores thereof, is, and shall be free to the citizens, and each one shall have power to collect salt on any

occasion free from molestation or disturbance. If any person or persons shall prevent any other person or persons, or shall attempt to prevent them from gathering salt, or going for, or returning with it, or shall arm or embody themselves for any or either of the above purposes, or shall molest or disturb, hinder or annoy any person or persons gathering salt, or going to, or returning from any salt lakes, or shall interfere with the salt gathered, or the animals, carts, or wagons, or any other mode of conveyance or transportation, shall be deemed guilty of a felony, and punished by confinement in the penitentiary, not less than two nor more than seven years, or by a fine of not less than one thousand dollars. (L. '53'54, p. 20, § § 1 and 2; C. L. '65, Ch.98, § § 1 and 2; C. L. '97, §58; Code '15, §5814.

## CHAPTER 97

### OIL AND GAS

#### Article

1. State Geologist, Sections 97-101 to 97-109.
2. Regulations of Wells, Sections 97-201 to 97-204.
3. Release of Leases, Sections 97-301 to 97-303.
4. Taxation of Output, Sections 97-401 to 97-406.
5. Recording Assignments of Royalties, Sections 97-501 to 97-502.
6. Conservation of Oil and Gas, Sections 97-601 and 97-602.

#### ARTICLE 1. STATE GEOLOGIST

#### Section

- 97-101. State geologist—Appointment—Duties—Salary.  
 97-102. Id.—Prescribe rules and regulations.  
 97-103. Inspectors.  
 97-104. Enforcement of rules and regulations.  
 97-105. County oil and gas inspectors.  
 97-106. Id.—Duties.  
 97-107. Id.—Compensation.  
 97-108. Id.—Powers and authority.  
 97-109. Penalty for violations.

97-101. State geologist—Appointment—Duties—Salary. The governor of the state of New Mexico is hereby authorized to appoint a state geologist \*ho in turn is hereby authorized to appoint with the approval of the commissioner of public lands, such inspectors, clerks and additional assistants as he may deem necessary to properly carry out the provisions of this act. Such geologist shall be at all times under the direction and supervision of the commissioner of public lands and shall collect and compile information relative to oil and gas development and production within the state which may affect state lands, and to prepare maps and reports necessary and expedient for the proper supervision and leasing of lands belonging to the state for oil and gas purposes. The salary of the geologist shall be not more than three thousand six hundred dollars (\$3,600.00) per annum, and the salaries of the other employees of the geologist's office shall be as the state land commissioner approves in each instance, which salaries and expenses shall be paid out of the state land office maintenance fund. (L. '25, Ch. 121, §1.

97-102. Id.—Prescribe rules and regulations. For the purpose of

conserving the natural resources of the state and to prevent waste thereof through negligent methods of operation, the state geologist shall prescribe and enforce rules and regulations governing the drilling, casing and abandonment of oil and gas wells and the waste of oil and gas therefrom upon all lands belonging to the state of New Mexico, which shall have the effect of law. The rules and regulations so prescribed shall be those from time to time adopted by the bureau of mines or by the secretary of the interior of the United States, pursuant to the act of Congress of February 20, 1920, known as the "leasing act," governing the methods of operations of operators upon lands embraced within permits or leases issued under the provisions of said act of Congress, and such additional rules and regulations as may be deemed proper by the state geologist, and it shall be the duty of all persons and corporations drilling or operating oil or gas wells upon any privately owned or leased lands or state lands to comply with the said rules and regulations, to file with the state geologist all logs of wells and other reports required thereby, together with samples of drill cuttings when requested, and to case, control and plug all wells as therein prescribed. (L. '25, Ch. 121, §2.

97-103. Inspectors. All inspectors to whom shall be delegated the duty of enforcing the provisions of this act concerning actual field operations on state lands shall be under the general supervision of the commissioner of public lands and shall be properly qualified as such and shall receive their actual traveling expenses in addition to their regular salaries. The state geologist may, from time to time, delegate his authority to supervise the abandonment of wells or the extinguishment of fire to an inspector of the United States bureau of mines who shall receive no compensation other than traveling expenses. (L. '25, Ch. 121, §3.

97-104. Enforcement of rules and regulations. The rules and regulations prescribed by the state geologist shall also apply to all privately owned or leased lands in the state and it shall be the duty of the county commissioners of the various counties to enforce the same. Said county commissioners shall be privileged to delegate their authority in such matters to the state geologist or to an inspector of the United States bureau of mines. (L. '25, Ch. 121, §4.

97-105. County oil and gas inspectors. In each county in this state the board of county commissioners is hereby authorized in its discretion to appoint a suitable and competent person with approval of the state geologist who shall not be interested privately in producing, piping, or selling oil or natural gas, to be known and designated as the "oil and gas inspector" of such county, who shall serve at the pleasure of the board from the date of his appointment and qualification. He shall be required before assuming the duties of his office to take and subscribe an oath or affirmation that he shall faithfully, impartially, and to the best of his skill and ability, discharge his duties, which oath or affirmation shall be filed with the county clerk of the county for which he is appointed, and within ten days after his appointment he shall file with said county clerk a good and sufficient bond to the state of New Mexico with



surety or sureties to be approved by said county commissioners, in the sum of three thousand dollars (\$3,000.00), conditioned for the faithful performance of his duties. (L. '25, Ch. 121, §5.

97-106. Id.—Duties. It shall be the duty of such inspector to see that all provisions of law and that all the rules and regulations prescribed by the state geologist pertaining to the drilling for oil or gas, the regulating of oil or gas wells on all privately owned or leased lands in such county and the piping and consumption of oil or natural gas are faithfully carried out and that the penalties of such laws are enforced against all violators of the same and to that end he shall promptly report all violations of such laws that come to his knowledge to the district attorney for his county and file proper complaint for the prosecution of the offenders. (L. '25, Ch. 121, §6.

97-107. Id.—Compensation. The compensation of said inspectors shall be fifteen dollars (\$15.00) per day for the time actually and necessarily consumed by them in the performance of their duties as herein prescribed, such compensation to be paid by the operator who has drilled or is drilling the well inspected. (L. '25, Ch. 121, §7.

97.108. Id.—Powers and authority. Such inspector shall have power and authority to enforce the laws and the rules and regulations .prescribed by the state geologist relating to the drilling and regulation of oil and gas wells and the piping and consumption of oil and natural gas and all other rules and regulations of said state geologist, and in the event of failure of the operator to comply with the requirements and instructions of any inspector, such inspector shall have the authority, and it is hereby made his duty, to take such steps, make such repairs, and conduct such operations as may in his judgment be necessary to enforce the said laws, rules and regulations; and the said inspector shall have a lien upon said well or pipe line, and all wells with which the same may be connected, for his fees, for the material, repair, and cost incurred in the enforcement of said laws, rules and regulations, for all costs of suit and reasonable attorney's fees in any action which may be maintained by said inspector in any court of competent jurisdiction for the enforcement of said laws, rules and regulations. (L. '25, Ch. 121, §8.

97-109. Penalty for violations. Any person, owner, driller or operator violating any of the provisions of this act or any of the rules or regulations prescribed hereunder, where no penalty is otherwise provided by law, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred (\$500.00) dollars, or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment, in the discretion of the court. (L. '25, Ch. 121, §9.

#### ARTICLE 2. REGULATIONS OF WELLS

##### Section

97-201. Wells—Mode of casing.

97-202. Wells—Plugging.

97-203. Wells—Abandoned—Failure to plug.

97-204. Wells—Failure to case or plug—Penalty.

97-201. Wells—Mode of casing. That the owner or operator of any well put down for the purpose of exploring for and producing oil or gas shall, before drilling into the oil or gas-bearing rock, incase the well with good and sufficient casing, and in such manner as to exclude all surface or fresh water from the lower part of such well, and from penetrating the oil or gas-bearing rock. Should any well be put down through the first into a lower oil or gas-bearing rock, the same shall be cased in such manner as will exclude all fresh or salt water from both upper and lower oil or gas-bearing rocks penetrated. (L. '12, Ch. 25, §1; Code '15, §3986.

97-202.' Wells—Plugging. The owner of any well, when about to abandon or cease operating the same, for the purpose of excluding all fresh or salt water from penetrating the oil or gas-bearing rocks, and before drawing the casing, shall fill the well with sand or rock sediment to the depth of ten feet above the top of each oil or gas bearing rock, and drive therein a round tapered, seasoned wooden plug at least two feet in length, and in diameter equal to the full diameter of the well below the casing, and immediately upon drawing the casing shall fill in on top of such plug with sand or rock sediment to the depth of five feet, and again drive into the well a round wooden plug three feet in length, the lower end tapering to a point and to be of the same diameter at the distance of eighteen inches from the smaller end as the diameter of the well above the point at which the casing rested and the plug is driven; and after such plug has been driven, the well shall be filled with sand or rock sediment to the depth of not less than twenty feet. (L. '12, Ch. 25, §2; Code '15, §3987.

97-203. Wells—Abandoned—Failure to plug. Whenever any person may be injured by the neglect or refusal to comply with the provisions of the preceding section, it shall be lawful for such person, after notice to the owner, lessee or caretaker of the premises upon which such well is located, to enter upon and fill up and plug such well in the manner provided in this chapter, and thereupon to recover the expense thereof, from the person or persons whose duty it was to plug or fill up such well in like manner as debts of such amounts are recoverable, and shall have a lien upon the fixtures and machinery and leasehold interests of the owner or operator of such well. (L. '12, Ch. 25, §3; Code '15, §3988.

97-204. Wells—Failure to case or plug—Penalty. Any person, owner, driller, or operator violating the provisions of the first or second section of this chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment, at the discretion of the court. (L. '12, Ch. 25, §4; Code '15, §3989.

## ARTICLE 3. RELEASE OF LEASES

## Section

97-301. Duty to release forfeited leases.

97-302. Failure to release—Action and damages.

97-303. Demand for release 'before bringing action.

97-301. Duty to release forfeited leases. Whenever any oil, gas or other mineral lease heretofore or hereafter executed shall become forfeited, it shall be the duty of the lessee, his, or its heirs, executors, administrators, successors or assigns, within thirty days from the date this act shall take effect, if the forfeiture occurred prior thereto, and within thirty days from the date of the forfeiture of any and all other leases, to have such lease released from record in the county where the leased land is situated, without cost to the owner thereof. (L. '25, Ch. 118, §1.

97-302. Failure to release—Action and damages. Should the owner of such lease neglect or refuse to execute a release as provided by this act, then the owner of the leased premises may sue in any court of competent jurisdiction to obtain such release, and he may also recover in such action of the lessee, his, or its heirs, executors, administrators, successors, or assigns, the sum of one hundred dollars (\$100.00) as damages, and all costs, together with a reasonable attorney's fee for preparing and prosecuting the suit, and he may also recover any additional damages that the evidence in the case will warrant. In all such actions, writs of attachment may issue as in other cases. (L. '25, Ch. 118, §2.

97-303. Demand for release before bringing action. At least twenty days before bringing the action provided for in this act, the owner of the leased land, either by himself or by his agent or attorney, shall demand of the holder of the lease (if such demand by ordinary diligence can be made in this state) that said lease be released of record. Such demand may be either written or oral. When written, a letter-press or carbon or written copy thereof, when shown to be such, may be used as evidence in any court with the same force and effect as the original. (L. '25, Ch. 118, §3.

## ARTICLE 4. TAXATION OF OUTPUT

## Section

97-401. Producers report to tax commission.

97-402. Tax commission certify net value to county assessor.

97-403. Assessment.

97-404. Taxes, when delinquent.

97-405. Taxation in lieu of all other taxes.

97-406. Returns.

97-401. Producers report to tax commission. That every owner or operator of any oil well or gas well that shall have produced oil or gas during any three months period, as hereinafter specified, shall on or before the tenth day of February, May, August and November of each year make and forward to the state tax commission a verified return in such form as said commission shall prescribe and covering the operations of each oil well and gas well during the three months' period expiring on the last day of January, April, July and October, stating the name

and address of such owner or operator, the location and description of the property, the total quantities of oil and gas produced during and on hand at the end of each of such periods, the current market value of such oil or gas at the place of production, any royalty paid or due on account of such production and to whom payable, and such other facts as may be required by the commission. The commission shall have all powers given it by existing law to enforce the making of such reports or to ascertain the facts relative thereto. (L. '25, Ch. 83, §1.

97-402. Tax commission certify net value to county assessor. From such return and such other information as may be available, the commission shall determine the net value of such quarterly output, being the market value thereof at such well, less any royalties on such quarterly output paid or owing the United States, or to any Indian tribe or Indian, being wards of the United States, or the state of New Mexico, less a further deduction of fifty per centum as allowance for production costs and amortization, and said commission shall certify such net value to the assessor of the county in which such well is located as the taxable valuation of the output of such well. (L. '25, Ch. 83, §2.

97-403. Assessment. Within five days after the receipt of such certificate, the assessor shall enter such valuation upon a special tax roll and assess and extend the taxes thereon at the rates levied and assessed upon the last tax filed with the county treasurer upon other property in the county and district in which such well is located, and deliver such tax roll to the county treasurer, and forward a copy thereof to the state tax commission. (L. '25, Ch. 83, §3.

97-404. Taxes, when delinquent. Immediately upon the receipt of such tax roll, the county treasurer shall send by registered letter to the owner or operator at the address stated in said return, a notice giving the amount of such taxes and that the same are due and payable. If said taxes be not paid within thirty days from the date of such notice, such taxes shall become delinquent at the expiration of such period and shall thereafter bear interest at the same rate and be subject to the same penalties as delinquent taxes upon real and personal property and shall be collected in the manner provided by law for the collection of such delinquent taxes. (L. '23, Ch. 83, §4.

97-44)5. Taxation in lieu of all other taxes. Taxes so collected shall be distributed in proportion to the various levies applicable to the district in which said oil or gas well is located. The tax provided herein shall be in lieu of all other taxes on such oil wells or gas wells or on their production. (L. '25, Ch. 83, §5.

97-406. Returns. The first return required for the year 1925 shall be made on or before the tenth day of August, 1925, and shall cover the period from January 1, 1925, to July 1, 1925, and thereafter returns shall be made quarterly as above specified. Taxes on the output of such oil wells or gas wells for the period up to December 31, 1924, shall be covered by existing laws and not in any manner affected by this act, and the

equipment belonging to such owner or operator used in the operation of such well. (L. '25, Ch. 83, §6.

#### ARTICLE 5. RECORDING ASSIGNMENTS OF ROYALTIES

##### Section

97-501. All assignments of royalties shall be recorded. 97-502. Id.—

Notice—Unrecorded not affect title.

97-501. All assignments of royalties shall be recorded. That all assignments and other instruments of transfer of royalties in the production of oil, gas or other minerals on any lands in this state, including lands operated under lease or contract from the United States and from the state of New Mexico, shall be recorded in the office of the county clerk of the county where the lands are situated. (L. '27, Ch. 76, §1.

97-502. Id.—Notice—Unrecorded not affect title. Such records shall be notice to all persons of the existence and contents of such assignments and other instruments so recorded from the time of filing the same for record, and no assignment or other instrument of transfer affecting the title to such royalties not recorded as herein provided shall affect the title or right to such royalties of any purchaser or transferee in good faith, without knowledge of the existence of such unrecorded instrument. (L. '27, Ch. 76, §2.

#### ARTICLE 6. CONSERVATION OF OIL AND GAS

##### Section

97-601. Co-operative development—Approval by state geologist. 97-602. Id.—

Including state lands.

97-601. Co-operative development—Approval by state geologist. Agreements made in the interest of conservation of oil and gas, or the prevention of waste, between and among operators owning separate holdings in the same oil and gas pool, or in an area that appears from geological or other data to be underlaid by a common accumulation of oil or gas, or both, or between and among such operators and royalty owners therein for the purpose of bringing about the development and operation of said pool, or area, or any part thereof, as a unit or establishing and carrying out a plan for the co-operative development and operation thereof, when such agreements are approved by the state geologist, are hereby authorized and shall not be held or construed to violate any of the statutes of this state relating to monopolies or contracts and combinations in restraint of trade. (L. '29, Ch. 132, §1.

97-602. Id.—Including state lands. When such agreements as are described in section 1 (97-601) of this act relate to an oil and gas pool wherein are situated lands in which the state owns mineral or royalty interests the commissioner of public lands is hereby authorized to enter into such agreements as a party thereto, on behalf of the state, when in his judgment the best interests of the state will be served thereby. (L. '29, Ch. 132, §2.

## CHAPTER 104

## PIPE LINES

## Section

104-101. Right-of-way for pipe lines.

104-102. Pipe lines declared common carriers.

104-103. May erect telephone or telegraph line along right-of-way.

104-104. Construction of pipe lines.

104-105. Storage awaiting transportation.

104-106. Corporation commission have supervision.

104-107. Damages for refusing oil or gas for transportation—Damages.

104-108. License.

101-109. Pipe lines for gas.

104-101. Right-of-way for pipe lines. Any person, firm, association, or corporation may exercise the right of eminent domain to take and acquire the necessary right-of-way for the construction, maintenance, and operation of pipe lines for the conveyance of petroleum, natural gas, and the products therefrom, but any such right-of-way shall in all cases be so located as to do the least damage to private or public property consistent with proper use and economical construction. Such land and right-of-way shall be acquired in the manner provided by law for the condemnation and taking of private property in the state of New Mexico for railroads, telegraph, telephone and other public uses and purposes. The engineers, surveyors and other employees of such person, firm, association or corporation shall have the right to enter upon the lands and property of the state and of private persons and of private and public corporations for the purpose of making necessary surveys and examinations for selecting and locating suitable routes for such pipe lines, subject to responsibility for any damage done to such property in making such surveys and examinations. (L. '27, Ch. 125, §1.

104-102. Pipe lines declared common carriers. All pipe lines laid, built, or maintained for the conveyance of crude oil or gas within the state of New Mexico are hereby declared to be common carriers, and said conveyance of said oil and gas shall be in the manner and under the restrictions in this act provided. (L. '27, Ch. 125, §2.

104-103. May erect telephone or telegraph lines along right-of-way. The owners of any pipe lines for which any right-of-way is obtained under the provisions of this act shall be entitled to erect and construct a telephone or telegraph line upon and along such right-of-way for use in the operation of such pipe line and shall not be required to operate said telegraph or telephone line as a toll line or to open same to the use of the public; Provided, that the construction and maintenance of said telephone or telegraph line shall not interfere with the cultivation of any agricultural land. (L. '27, Ch. 125, §3.

104-104. Construction of pipe lines. All pipe lines passing through farm lands shall be placed below the surface of the ground to a sufficient depth as not to interfere with cultivation of lands through which they pass. All pipe lines passing through or over streams or stream beds or bodies of water must be so constructed, maintained and

operated as not to pollute any water in such stream, body of water, or which may, at any time, be in or run in such stream bed. Any pipe line constructed, maintained or operated contrary to the provisions of this section shall be adjudged a nuisance and abated as such with damages; and, in addition thereto, all persons in any way responsible for such operation or maintenance shall be guilty of a misdemeanor punishable by imprisonment not exceeding one year or by fine of not less than \$100.00 nor more than \$1,000.00 and each day of such unlawful operation or maintenance shall constitute a separate offense. (L. '27, Ch. 125, §4.

104-105. Storage awaiting transportation. It shall be the duty of every person, firm, association or corporation operating under such pipe line to provide suitable necessary receptacles for receiving such oil and gas for transportation and for storage at the place of delivery until the same can be reasonably removed by the consignee, and shall be liable therefor from the time the same is delivered for transportation until a reasonable time after the same has been transported to the place of consignment and ready for delivery to the consignee. In event the capacity of such pipe line is not sufficient to carry all of such oil or gas offered for transportation, that it shall be the duty of every such person, firm, association, or corporation daily to receive and forward such oil or gas as shall be offered for transportation in such proportion as the oil or gas of each shipper offering the same for shipment bears to the total volume of oil or gas offered for such transportation. Such common carrier shall issue to the shipper a certificate showing the actual quantity and specific gravity thereof. (L. '27, Ch. 125, §5.

104-106. Corporation commission have supervision. The corporation commission of the state of New Mexico shall have the general supervision and control over all such persons, firms, associations or corporations in the performance of said business, and shall prescribe reasonable rates for the transportation through said pipe lines of said oil or gas, and shall prescribe reasonable rules for the conduct and operation thereof, which rates and rules when prescribed and delivered in writing to any such person, firm, association, or corporation, shall be printed and posted up in a convenient, accessible and conspicuous place at each office, station or place of business where such oil or gas is received or delivered. The said state corporation commission is hereby authorized to prescribe reasonable maximum rates which shall be charged for the transportation of such oil or gas, which rates shall be binding on every such person, firm, association or corporation; Provided, in event the reasonableness of such rates are contested in the manner provided by law, in such proceedings the burden of proof to show the unreasonableness of such rates shall be upon the person, firm, association, or corporation contesting the same. (L. '27, Ch. 125, §6.

104-107. Damages for refusing oil or gas for transportation—Damages. Any such person, firm, association, or corporation which shall fail or refuse to accept, transport, and deliver when offered, up to the full capacity of such pipe line and at rates not to exceed those provided

for by this act, or shall fail, neglect or refuse to obey any rule so established by the said state corporation commission, shall be liable to the person injured by such failure or refusal for the damage suffered by the shipper in the sum of not less than \$500.00 liquidated damages, together with reasonable attorney's fees, to be fixed by the court, in case suit shall be brought therefor, and each day's failure or refusal of such owner or operator of such pipe line to accept, transport or deliver oil or gas up to the full capacity of such pipe line at the rates prescribed by the state corporation commission when offered, shall be a separate failure upon which suit may be brought as provided in this act; such damages and attorney's fees to be recovered in any court of competent jurisdiction; and in case of any corporation so refusing or failing, the state corporation commission is hereby authorized to revoke the charter or permit to do business in this state of such corporation. (L. '27, Ch. 125, §7.

104-108. License. The owners or operators of all pipe lines laid, built, or maintained for the conveyance of crude oil or gas within the state of New Mexico shall, within thirty days after the taking effect of this act, and annually thereafter on the first day of July of each year, apply for and procure a license from the state corporation commission to operate such pipe lines, and shall on or before the 20th day of each month pay to the state corporation commission a license fee of one-tenth of one cent per barrel of oil or gasoline transported by such pipe lines, and one-tenth of one cent per ten thousand cubic feet of gas transported by such pipe lines, for the preceding calendar month. All license fees so collected by the state corporation commission shall be paid into a fund known as the "pipe line contingency fund," and shall be expended only for the inspection of, and administration and enforcement of the rules and regulations affecting, pipe lines as provided for in this act. (L. '27, Ch. 125, §8.

104-109. Pipe lines for gas. No pipe line for the transportation of gas shall be laid or run within a distance of four hundred feet parallel to any railway, and any pipe line crossing the right-of-way of any railway company shall be buried to a depth and for a distance prescribed by the state corporation commission. (L. '27, Ch. 125, §9.

## CHAPTER 111

### PUBLIC LANDS

Article 5. Mineral Leases for Exploration and Development, Sections 111-501 to 111-504.

#### ARTICLE 5. MINERAL LEASES FOR EXPLORATION AND DEVELOPMENT

Section

111-501. Commissioner of public lands may issue mineral leases—Rentals and royalties.

111-502. Term of leases.

111-503. Salt excepted from provisions of act.

111-504. Rules and regulations.

111-501. Commissioner of public lands may issue mineral leases—Rentals and royalties. That the commissioner of public lands



be and he is hereby authorized to issue leases for the development, exploration and production of potassium, sodium, phosphorus and other minerals of similar occurrence, and their salts and compounds including chlorides, sulphates, carbonates, borates, silicates, nitrates and any and all other salts and compounds of the said minerals, on any lands of the state of New Mexico upon such terms and conditions as he may deem to be for the best interests of the state and conformable to this act. The minimum first year's rental for such leases shall be one hundred (\$100.00) dollars and in all cases there shall be reserved to the state a royalty of not less than five (5%) per centum of the amount or value of the minerals produced, such royalty to be computed upon the value of said minerals delivered at the nearest or most accessible railroad shipping point. (L. '29, Ch. 140, §1.

111-502. Term of leases. Leases under this act may be made for a term of ten years or less and as long thereafter as said minerals, or any of them, in paying quantities shall be produced from the leased lands. (L. '29, Ch. 140, §2.

111-503. Salt excepted from provisions of act. There is expressly excepted from the provisions of this act, chloride of sodium, usually called and known as common salt, and this act shall not be construed as modifying, altering, repealing, or in any wise changing the existing statutes relating to the leasing of state lands for the production of chloride of sodium, or common salt. (L. '29, Ch. 140, §3.

111-504. Rules and regulations. The commissioner of public lands shall prescribe and promulgate from time to time all necessary rules and regulations for carrying out the provisions hereof. (L. '29, Ch. 140, §4.

## CHAPTER 134

### STATE OFFICERS

Article 9. Inspector of. Mines, Sections 134-901 to 134-906.

#### ARTICLE 9. INSPECTOR OF MINES

##### Section •

134-901. State inspector of mines—How appointed.

134-902. Qualifications.

134-903. Bond—Compensation.

134-904. Duties—Appeal from order.

134-905. Inspections—Refusal to allow.

134-906. Office and instruments.

134-901. State inspector of mines—How appointed. The state engineer, the governor and the president of the school of mines shall constitute a board of examiners, who shall examine all applicants for appointment to the office of state inspector of mines as to their qualifications to hold said office. Said board shall examine all such applicants and the governor shall, by and with the advice and consent of the Senate, appoint some qualified person so examined to said office. (L. '12, Ch. 80, §1: Code '15, §5362.

134-902. Qualifications. No person shall be eligible to hold said office unless he be a citizen of the United States, at least thirty years of age, a resident of New Mexico for one year next preceding his appointment, and shall have had at least three years experience in the workings of coal mines in New Mexico, and at least five years of practical experience in the workings of coal mines in the United States, and have a practical knowledge of mining engineering, of mine timbering, of the different systems of working and ventilating coal mines, of the nature and properties of noxious and poisonous gases of mines, and of the methods of dispelling the same and guarding against explosions, and shall not be interested financially or otherwise in any coal mine or company operating any coal mine in the state. (L. '12, Ch. 80, §2; Code '13, §5363.

134-903. State mine inspector—Bond—Salary. The inspector shall give bond to the state in the sum of four thousand dollars (\$4,000.00) and shall receive as compensation for his service the sum of two thousand four hundred dollars (\$2,400.00) per annum payable monthly, and in addition actual and necessary transportation and traveling expenses. (L. '19, Ch. 84, §1, amending Code '15, §5364.

134-904. Duties—Appeal from order. The duties of the inspector shall be as follows, to-wit:

He shall:

(1) Make a careful and thorough inspection of every coal mine operated in the state as often as in his opinion may be necessary.

(2) Proceed without delay to any mine within the state when he learns of any explosion or other catastrophe therein by which lives of men are jeopardized or in which fatalities have occurred, and render such aid as he can in the rescue of persons within the mine and in the protection of rescuers from danger.

(3) Shall give notice to the owners, operators or managers of any coal mine wherein he shall find improper construction or that said mine is not furnished with reasonable and proper machinery and appliances for the safety of miners and other employees, that said mine is unsafe, stating in what particular the same is unsafe. and shall require said owners, operator or managers to provide such additional machinery, slopes, entries, means of escape, ventilation or other appliances necessary to the safety of miners and other employees of said mine within a period to be named in said notice.

(4) Shall inspect and pass upon the adequacy and safety of all hoisting apparatus in mines, and may demand a test of safety catches or clutches upon such hoisting apparatus as often as once in every three months or whenever he may believe such hoisting apparatus to be defective; he shall conduct said test by detachment of the rope or cable at a point in the shaft or above the shaft where the cage may be arrested in its fall with as little wreckage of property as possible if the safety catches or clutches should prove defective.

(5) He shall arrange a uniform system of mine bell signals after consultation with the engineers in charge of hoisting apparatus and the

operators of mines within the state, and shall at once furnish a copy of the same to each mine owner, operator or manager within the state.

(6) Shall make an annual report to the governor on or before the first day of December of each year; which said report shall cover the preceding fiscal year and shall contain a review of the official acts of the inspector; statistics of the number of persons employed in and about the coal mines in the state and of the production and the estimated value thereof, and a resume of the mining conditions generally existing in the state during the said year.

(7) The inspector is hereby given authority at all reasonable times to enter and inspect any coal mine in the state and the workings and machinery belonging thereto in such manner as not to impede or obstruct the workings of the mine; to make inquiry into the state of the mine, works and machinery thereof, the ventilation and mode of lighting the same, and all matters and things connected with and relating to the safety of employees in and about the mines, and especially to the end that the provisions of law shall be complied with by the owners, operators or managers thereof; to require that some person of practical experience and responsibility representing the owner, operator, or manager shall accompany the said inspector upon such trips of inspection through the mine in order that the inspector may point out and specify any defects in the mine, in the methods of mining and in the equipment and construction thereof, which defects may violate any of the provisions of law.

And to require that the owner, operator or manager shall at all times furnish means necessary for such entry, inspection, examination and inquiry.

The inspector shall make an entry of record in his office of the time and material circumstances of each inspection.

(8) Every owner, operator or manager of any such mine shall have a right of appeal to the district court in the county wherein such mine is situated, as to the necessity or reasonableness of the order or requirements of the inspector under any of the provisions of this article and section 88-620. (L. '12, Ch. 80, §4; Code '15, §5365.

134-905. Inspections—Refusal to allow. Every owner, agent, manager or lessee of any coal mine in this state shall admit the inspector for the purpose of making examination and inspection, provided for by law. Any owner, agent, operator, manager or lessee who shall refuse to allow such inspection to be made shall, upon conviction, be deemed guilty of a misdemeanor, and shall be fined in a sum not less than fifty dollars or more than five hundred dollars, or by imprisonment not less than one or more than three months, or by both such fine and imprisonment, (L. '12, Ch. 80, §5; Code '15; §5366.

134-906. Office and instruments. The state shall provide for the use of the mine inspector a suitable office with fuel and light, provided with necessary furniture, fixtures, files and supplies for properly conducting his business as provided in this article; and shall further provide for the use of the inspector an anemometer, a barometer, safety lamps and other appliances and instruments necessarily required in the work of mine inspector. (L. '12, Ch. 80, §13; Code '15, §5367.

## CHAPTER 141

## TAXATION

Article 5. The State Tax Commission Sections 141-502 (in part) and 14-505.

## ARTICLE 5. THE STATE TAX COMMISSION

## Section

14d-502. Assessment by commission (in part). 141-505.

Method of valuing mineral property.

141-502. Assessment by commission (in part). At its regular meeting beginning on the first Monday of March of each year, the commission:

(1) Shall determine the actual value:  
(c) Of mineral property in the state, as hereinafter defined;

(2) Shall certify:

(b) To the local assessor in the respective counties in which any of the property included in 1 (c) is situated, the value of such property, found and determined as hereinafter provided;

(3) The actual value so determined, when certified by the commission, shall be final and binding upon all tax officials of the state. Each assessor shall place the actual value so certified upon the assessment roll of his county for the year for which determined, and taxes shall be levied thereon in the same manner as in case of other property.

(4) Every person, firm, association and corporation, the owner or lessee of property subject to valuation by the commission, shall, on or before the first Monday of February in each year, make a return, under oath, to the commission, in such form and setting out such facts and information as the commission shall prescribe and require.

(5) The commission shall, after determining, and before certifying, the valuation of property fixed under the provisions of this section, mail to the owner a notice of his valuation so fixed, and the commission shall, upon written application therefor, filed with it within fifteen days after the date of mailing such notice, grant a hearing thereon to such owner, and give him reasonable notice of the date fixed therefor. (L. '25, Ch. 102, §33, amending L. '21, Ch. 133, §502.

141-505. Method of valuing mineral property. (1) "Mineral property" as used in this act shall mean and include all mineral property in this state, any interest therein, and any products thereof, and all improvements, equipment, materials, supplies, and personal property held or used in connection therewith, and the surface value of all mineral lands for grazing, timber, agricultural or other purposes when held in the same ownership as the mineral rights therein.

(2) Mineral property, any interest therein, and any products thereof, for the purposes of taxation, shall be divided into the three following classes:

Class one: Mineral lands held in fee in private ownership and mineral rights and interests therein.

Class Two: The severed mineral products from mineral lands held by possessory title under the laws of the United States.

Class Three: The severed mineral products from leasehold and contract mineral rights in lands, the fee of which is in the United States or the state of New Mexico.

(3) Mineral properties falling in Class One shall be sub-classified into either productive or non-productive. Productive properties shall be such as are mined or operated in good faith for the mineral values therein, with a reasonable degree of continuity during the year for which the return, hereinafter required, is made, and to an extent in keeping with the market demand and conditions affecting the extraction and disposition of the product. Non-productive properties shall be such as are known to contain minerals in commercially workable quantities, of such character as add present value to the land in addition to its value for other purposes, and are not operated so as to fall in the class of productive properties as above defined.

(4) The word "person" as used in this chapter shall mean and include any individual, corporation, co-partnership, trust, or association of persons.

(5) Every person owning or holding any mineral property, subject to valuation by the commission, shall make a return to the commission on or before February 1st of each year, showing such facts and in such form as the commission may determine and prescribe. In addition thereto every owner or operator of any productive mineral property and every owner or operator of any mineral property falling in Classes Two and Three shall, between the first day of January and the first day of February in each year, make and forward to the commission at its office in Santa Fe, New Mexico, a sworn return or statement showing, in such form and detail as the commission shall prescribe, the total quantities and kinds of ores, metals, coal, coke, petroleum, natural gas, and other valuable minerals or metals produced and sold during, and on hand at the end of, the next preceding calendar year, together with the name and post office address of the owner and operator and such information as to the description, location and area of such mineral property and the cost of production, value and amount realized from such output and such other facts as may be required by the commission. Every person engaged in mining or operating any such property shall keep and preserve at such mine, mineral property, or at the principal office of such person in this state, accurate books and accounts showing in such detail as may be prescribed by the commission, all facts relating to the quantities and kinds of minerals and metals produced, the cost of production, milling, reduction, treatment, transportation and sale thereof, the quantities sold, the amount realized therefrom and the quantities and value of such mineral and metal produced and not disposed of.

(6) From such returns and statements, and such other information as may be available, the commission shall ascertain and determine the market value of the average annual output of such productive mineral property, less the actual cost of producing and bringing the output to the surface and of milling, treating, reducing, transporting and selling the same, over the period of five years (or so much of such period as the property has been in operation) next preceding the year in which such

return is required to be made. But there shall not be included as part of such cost any amounts paid for salaries of any persons not actually engaged in the operation of such property or the milling, treatment, reduction, transportation, or selling such output, or in the immediate management or superintendence of such operations; nor shall there be included as part of such cost any amounts paid for improvements or the purchase of machinery, equipment, appliances, or for construction of mills, reduction works, transportation facilities or other buildings or structures.

(7) The commission shall determine a reasonable quantity or area of reserves of ores or minerals in lands owned or held by each person operating a productive property, to be operated by the same works, based upon the estimated life of such mine or mineral property, its average annual production, the market demand for the output, and other conditions surrounding such property, and shall allocate such reserves to each productive mineral property.

(8) For the purpose of the exercise of the option hereinafter provided for, as to the method of determining the ad valorem value of productive properties,, such properties are hereby divided into the following two classes:

1. Gas and oil wells.
2. All other properties.

The commission shall between the date when this act takes effect and the third Monday in February, 1922, cause an appraisal of the productive mineral properties falling within Class 2 of this subsection, for the purpose of comparison with the result of using the output method mentioned in subsection 10 hereof. The data, facts, and figures gathered by the commission in making the above appraisal shall be a public record open to inspection at all reasonable times.

(9) The commission may, in any particular year, determine the ad valorem value of the mineral in all productive mineral properties falling in any one of the two classes enumerated in subsection 2 hereof, with the respective allocated reserves, by appraisal thereof. In such case the commission shall use all factors and elements which reasonably enter in and are necessary to determine such value, and the commission shall make specific findings of facts in writing, setting out in detail the factors, elements and method of calculation used in determining the value of each specific productive mineral property. Such findings shall be preserved in the official records of the commission and certified copies thereof shall be furnished to the taxpayer on request.

(10) The commission may, in any particular year, determine such average annual output value, being the market value of such average annual output, less the deductions provided for in subsection 6 hereof, to be the ad valorem value of the mineral in all productive mineral properties, and the respective reserves allocated thereto, falling in any one of the two classes enumerated in subsection 8 hereof for the purpose of taxation for such year.

(11) The commission shall determine the ad valorem value of mineral in non-productive mineral property by appraisal thereof. In de-

termining the value of such properties the commission shall take into consideration the distance from railroad, the condition for extracting and disposing of the minerals and the probable length of time before transportation facilities and market demand will warrant production and sale thereof.

(12) The commission shall, in each year, determine such average annual output value, being the market value of such average annual output, less the deductions provided for in subsection 6 hereof, to be the taxable value for such year of all properties falling in classes (2) and (3) enumerated in subsection (2) hereof. In calculating the average annual output value of the severed product falling in class 3, the commission shall first deduct from the gross product any royalties belonging to the state or United States.

(13) In case any productive mineral property shall, for the period for which market value of average annual output is being calculated in a given year, fail to produce an average annual output of a value above actual cost, as defined in this act, commensurate with the opportunities and difficulty of producing and disposing of the same, the commission may, in its discretion, determine the taxable valuation of such property for the taxing year on the same basis as for non-productive property.

(14) All improvements, equipment, materials, supplies and personal property held or used in connection with, and the surface values for grazing, timber, agricultural or other purposes, when held in the same ownership as the mineral rights, of all mineral property falling within class 1 enumerated in subsection (2) hereof shall be valued and assessed by an appraisal thereof in addition to the valuation of the mineral therein.

(15) All improvements, equipment, materials, supplies and personal property held or used in connection with all mineral property falling within classes numbered two and three enumerated in subsection (2) hereof shall be valued and assessed by the commission by an appraisal thereof in addition to the values provided to be determined in subsection 12 hereof.

(16) The taxes upon mineral property, other than upon classes two and three as defined in subsection (2) hereof, are hereby made a lien upon such mineral property, from the first day of January of the year in which the same are levied and assessed.

In case of a mining claim not patented or entered for patent such lien shall be upon the right of possession -and the improvements, and if such mining claim be sold for taxes such sale shall pass to the purchaser the title and right of possession, together with the improvements.

In any case where the minerals or mineral rights in land belong to a person or persons other than the owner of the land, taxes upon such minerals or mineral rights shall not be a lien upon the separately owned land, and taxes upon such separately owned land shall not be a lien upon the separately owned mineral or mineral rights. (L. '21, Ch. 133, §505.

## CHAPTER 105

## PROCEDURE

## Article

18. Ejectment, Section 105-1802.  
 20. Suits to quiet title, Section 105-2009.

## ARTICLE 18. EJECTMENT

## Section

105-1802. Mining claims.

105-1802. Mining claims. The action of ejectment will lie for the recovery of the possession of a mining claim, as well also of any real estate, where the party suing has been wrongfully ousted from the possession thereof, and the possession wrongfully detained. (L. '07, Ch. 107, §1; Code '15, §4361.

## ARTICLE 20. SUITS TO QUIET TITLE

## Section

105-2009. Mines.

105-2009. Mines. For the purpose of this article and for all other purposes, mines shall be deemed and taken to be real estate. (L. '07, Ch. 107, §1; Code '15, §4395.

## CHAPTER 35

## CRIMES

## Article

16. Larceny, Sections 354602 and 354603.  
 17. Receiving Stolen Property, Section 35-1705.  
 19. Cheats—Frauds—False Pretenses, Sections 35-1908, 35-1915 to 35-1917.

## ARTICLE 16. LARCENY

## Section

35-1602. Larceny of ores.  
 35-1603. Breaking ore with intent to steal.

35-1602. Larceny of ores. Any person wrongfully extracting or carrying away or concealing or selling or attempting to sell ores from any mine, being the property of another, shall be deemed guilty of felony, and on conviction thereof shall be punished as for grand larceny, and the defendant or defendants shall be liable to the owner or owners of said ore for the value thereof, recoverable by an action at law. (L. '91, Ch. 74, §1; C. L. '97, §2316; Code '15, §1526.

35-1603. Breaking ore with intent to steal. If any person, lessee, licensee or employee in or about any mine in this state, shall break and sever, with intent to steal, the ore or mineral from any mine, lode, ledge or deposit in this state, or shall take, remove or conceal the ore or mineral from any mine, lode, ledge or deposit, with intent to defraud the person or persons rightfully entitled to any such mine, lode, ledge or deposit, such offender shall be deemed guilty of felony, and on conviction shall be punished as for grand larceny. (L. '89, Ch. 103, §8; C. L. '97, §2325; Code '15, §1527.



## ARTICLE 17. RECEIVING STOLEN PROPERTY

## Section

35-1705. Purchasing stolen ore.

35-1705. Purchasing stolen ore. Any person or persons who shall knowingly purchase, or contract to purchase, or make any payment for, or on account of, any ore which shall have been wrongfully extracted or stolen from any mine, shall be considered an accessory after the fact to the unlawful extracting or stealing of such ore, and upon conviction, shall be subjected to the same punishment to which the principals may be liable. (L. '91, Ch. 74, §2; C. L. '97, §2317; Code '15, §1542.)

## ARTICLE 19. CHEATS—FRAUDS—FALSE PRETENSES

## Section

85-1908. False statements to prevent sale of property.

35-1915. Keeping false ore scales, etc.

35-1916. Cheats in ore purchases.

35-1917. False representations as to mines.

35-1908. False statements to prevent sale of property. That any person or persons who shall hereafter knowingly make any false or malicious statement or statements regarding the title or ownership of any mining claims, real estate or other property within this state, or shall knowingly make any false or malicious statements claiming to have an unsatisfied lien, mortgage or other unsatisfied claim against any mining claim, real estate or other property, with the intent or for the purpose of defeating or injuring the sale of said property or with any other evil intent, shall be deemed and held to be guilty of a felony and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the state penitentiary for not more than three years, or both such fine and imprisonment, in the discretion of the court trying such case. (L. '89, Ch. 16, §1; C. L. '97, §1136; Code '15, §1558.)

35-1915. Keening false ore scales, etc. Any person, association, or corporation, or the agent of any person, association or corporation engaged in the business of milling, sampling, concentrating, reducing, shipping or purchasing ores, as aforesaid, who shall keep or use any false or fraudulent scales or weights for weighing ore, or who shall keep or use any false or fraudulent assay scales or weights for ascertaining the assay value of ore, knowing them to be false, every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding one thousand dollars, or less than one hundred dollars, or imprisonment not more than one year, or both, at the discretion of the court. (L. '89, Ch. 103, §6; C. L. '97, §2323; Code '15, §1564.)

35-1916. Cheats in ore purchases. Any person, corporation, or association, or the agent of any person, corporation or association engaged in the milling, sampling, concentrating, reducing, shipping or purchasing of ores in this state, who shall in any manner knowingly alter or change the true value of any ores delivered to him or them, so as to deprive the seller of the result of the correct value of the same, or who shall substitute other ores for that delivered to him or them, or who shall issue any bill of

sale or certificate of purchase that does not exactly and truthfully state the actual weight, assay value and total amount paid for any lot or lots of ore purchased, or who, by any secret understanding or agreement with another, shall issue a bill of sale or certificate of purchase that does not truthfully and correctly set forth the weight, assay value and total amount paid for any lot or lots of ore purchased by him or them, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding one thousand dollars, or less than one hundred dollars, or imprisonment not more than one year, or both, at the discretion of the court. (L. '89, Ch. 103, §7; C. L. '97, §2324; Code '15, §1565.

35-1917. False representations as to mines. Any person or persons who shall falsely or fraudulently misrepresent the character or quality of any mine or the ores, minerals or deposits therein with fraudulent intent to injure the owner or owners of such mine or to depreciate the value of the same, or to prevent a sale thereof, shall be deemed guilty of blackmail, and upon conviction thereof shall be fined in a sum not to exceed one thousand dollars, or less than five hundred, or to be imprisoned in the county jail not exceeding ninety days, or with both such fine and imprisonment, in the discretion of the court. (L. '89, Ch. 103, §9; C. L. '97, §2326; Code '15, §1566.

Note. Sec. 88-30.5, 88-612, 88-613, and various penal provisions in the foregoing compilation.

## CHAPTER 130

### STATE INSTITUTIONS

#### Article

5. Miners' Hospital, Section 130-501.

#### ARTICLE 5. MINERS' HOSPITAL

#### Section

130-501. Miners' hospital—Free treatment.

130-501. Miners' hospital—Free treatment. The miners' hospital of New Mexico is intended and meant to be for the free treatment and care of resident miners of the state of New Mexico, who may become sick or injured in the line of their occupation; and all lodging and medical care shall be free of charge, as shall all other expenses incurred by the patient, except in cases where such patient is possessed of property and means sufficient to enable him to pay the actual costs and charges incurred by his attendance at such hospital, in which case the board of trustees may make provision for his being charged and paying such expenses incurred.

Provided, however, that said trustees, may take in other patients for treatment and care, upon the payment of all expenses therefor, by said patients, when the same may be so received and treated without excluding any miners from said hospital. (L. '03, Ch. 2, §9, as amended by L. '07, Ch. 48, §1; Code '15, §5106.