THE JAPANESE MINING REGULATIONS

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JAPANESE MINING REGULATIONS.

TRANSLATED FROM THE ORIGINAL JAPANESE TEXT

BY

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PREFACE.

JAPAN is comparatively rich in mineral wealth, gold, silver, copper, etc., having been extensively mined for several centuries past. In modern times, coal, petroleum, sulphur, and other minerals, have been gradually discovered and are surely destined to become a considerable source of wealth to this country.

Unmined minerals have been owned by the State from remote ages irrespective of the ownership of the land. They have been either mined by the governments of successive generations or else official privileges to mine have been granted to persons who have been induced to undertake the work. Under these circumstances there were, previous to the Restoration, but few regulations relating to mining though there existed in former times institutions and customs relating thereto. Leaving these ancient and obsolete customs out of account, the following is a brief sketch of legislation relating to mining subsequent to the commencement of the Meiji era.

By Notification No. 177, issued by the Executive Authorities in February of the 2nd year of Meiji (1867), the opening of private mines was formally allowed. At that time the gold mines in Sado and the silver mines in Ikuno, Tajima Province, were under the direct control of the old Shogunate Government, mining being carried on officially; while the copper-

mines in Besshi, Iyo Province, were being worked by Mr. Sumitomo, a merchant of Ōsaka, who had been ordered to exploit them by the Shogun's Government. These mining operations were a source of considerable revenue to the Shogunate.

The mines which were within the provinces of various *Daimyō* were worked by the authorities of the respective provinces or by people who undertook the work by order of the *han* (clan) authorities, who made it a source of their revenue. Simultaneously with the Restoration, however, mining rights were restored to the Imperial Government and mining was freely permitted to persons who paid a certain amount of royalty on their operations. There was at this time no definite law on the subject, mining rights were still practically in the hands of the *han* (clan) authorities, and the way in which mining operations were conducted under their control was fearful and wonderful in the extreme. It was virtually impossible to issue general mining regulations for controlling the mining industry of the Empire so long as the clan governments lasted, but when in 1871 the *han* (clan) governments were abolished and the *Ken* (prefectural) system was adopted, all the mines in the country became in theory the property of the Central Government.

On the 27th of March 1872, Rules relating to Mines were issued by the *Dajōkwan* (Council of State) as Notification No. 100. These rules, considered in the light of present experience, were indeed crude and imperfect, but they formed the embryo of the present mining regulations. Some extracts from the provisions of this Notification are quite curious and may be of interest and I therefore annex them :—

"Persons engaged in mining should, to com-
"mence with, know what minerals are. All kinds
"of inorganic substances (things that are without
"life) are called minerals. There are two kinds
"of inorganic substances. One called metallic
"(embracing gold, silver, copper, lead and other
"metals); the other called non-metallic (embracing
"coal, sulphur rock, salt, precious stones, etc., but
"not metals). Both are minerals, and all these
"minerals are the property of the Government.
"The Government alone has therefore the right
"to mine them. Under these circumstances all
"minerals belong to the Government no matter in
"what mine they are found and irrespective as to
"whom the land in which they are found belongs,
"or whether minerals be found on the surface of or
"in the bowels of the earth, and under no circum-
"stances are they the private property of land-
"owners. Provided that ordinary earth and stones
"are not necessarily included as minerals, and
"land owners may therefore dig them out at
"their pleasure."

"As above stated, all minerals now belong to
"the Government. People engaged in mining
"in all *fu* and *ken* are therefore all working
"under contract with the Government. There
"is no ground for believing that the mines they
"have contracted for can be made the object of
"mortgages for private debts. Provided that
"those who intend to contract loans by pledging
"as security the right of undertaking the contract
"for a period of years contracted for must ob-
"tain the approval of the local authorities. All
"loans for which such approval is not obtained
"shall be deemed as having no connection with
"mines even though legal action be brought in

" connection with the loans."

"It is positively forbidden to contract loans " with foreigners giving as security the right of " undertaking the contract for mining."

The provisions quoted above clearly established the principle of State ownership of minerals and of granting no mining rights to foreigners.

Subsequently, in July 1873, another set of regulations called the "*Nippon Kōhō*" (Japan Pit Law) were promulgated by the *Dajōkwan* as Notification No. 259.

In January 1875, No. 2 Notification was issued by the *Dajōkwan* by which the tax on mining products mentioned in Chapter VIII. of the "*Nippon Kōhō*" was abolished.

In April 1876, the *Dajōkwan* issued Notification No. 49, by which it was provided that in case persons engaged in mining were declared bankrupt they should be suspended from doing work until they had been "summarily dealt with."

Again in October 1879, Notification No. 14 was issued by the Public Works Department by which the names of trial digging (*shikutsu*) leasing of mining areas (*shakku*) and opening of mines (*kaikō*) as applied to persons engaged in the collection of dust iron and dust gold were abolished and changed to collection (採取). It was at this time that the Regulations for the collection of dust minerals (砂鑛) were first made independent of the provisions governing general mining business.

In September 1881, revisions and additions were made in Chapter VIII. of the "*Nippon Kōhō*" by issuing Notification No. 49 by the *Dajōkwan*.

In August 1882, Notification No. 38 was issued by the *Dajōkwan* by which additions were made in No. 9 in Chapter III. of the "*Nippon Kōhō*" (Japan Pit Law); and again in July 1890, Law No. 55 was issued by which revisions were made in Chapters II., III. and V. of the same law.

In spite of these revisions the "*Nippon Kōhō*" was practically in force for eighteen years—from 1873 until September, 1890—when it was entirely repealed by Law No. 87, and Mining Regulations (鑛業條例) were established, portions of which were revised by Law No. 74 issued in March 1900. These are the regulations at present in force.

With regard to the draft of the proposed new Mining Law, which will be found on page 43, this was published in the *Official Gazette* (Kwampō) on Wednesday, 5th March, 1902, after it had been submitted to the Diet. Since its publication nothing has been done and the new measure has not yet been passed, but it is thought that a translation will be acceptable as a reference showing the tendency of Mining legislation in Japan.

In order that no misapprehension may occur, it must be remarked that while only Japanese subjects are allowed to carry on mining operations, the law provides that companies duly formed in accordance with the laws of the Japanese Empire may engage in mining; and as there is nothing to prevent foreigners from forming such companies in this country it will be seen that while as individuals they could not engage in mining they can collectively (in the form of a juridical person) undertake mining works subject to the regulations at present in force. It seems