

IN THE MINING WARDEN'S COURT ON
TUESDAY, 15TH AUGUST, 1978 - LIGHTNING RIDGE
MATTER NO. 13/78, 14/78, 15/78, 16/78 AND 19/78.

JUDGMENT

BENCH: I have heard throughout the day some five applications for assessment of compensation. Each of these applications is in respect of a Mining Purposes Lease granted under - over a comparatively small area of land. I think the maximum total is some 4.35 acres within the property "Lorn" of which Mr. and Mrs. Waterford are the occupiers under Western Lands leases. The total area of that property, I might say, is in excess of 10,000 acres.

It has been put to me, on behalf of the applicants, that is, the Lessees, under the Mining Purposes Leases, that I should look barely at the acreages involved and say that the compensation should be assessed at a set figure and that that figure should be, Mr. Barclay puts this, at \$10 per acre, or part thereof, and that that should represent a total payment for the whole period of five years. On the other hand, Mrs. Waterford, a co-occupier says in effect that some negotiations had been previously entered into and that there had been discussions with a view to a total claim for compensation around \$150 per holding for the total period of five years, that is, at a rate of some \$30 per year.

It seems to me that if the Court were simply to look at the matter on the basis of simply the bald acreage as it were, it would not be acting in accordance with the tenor of the Mining Act. The Act in Section 122 sub-section (1) paragraph (d) talks about compensation being assessed not only in respect of the land, the subject of the authority but also in respect of land not being lands the subject of the authority. So, in effect, the Court has to look in my view at the surrounding circumstances, the periphery as it were, of the holdings in addition to the acreage of the holdings. I have heard evidence which has been somewhat disputed of course, by Mr. Barclay and Mr. Allen, about the disturbance to land, the damage that is being done to stock, the destruction, the loss of stock, either by human interference or by accident, the possibility of dogs destroying sheep in particular, the possibility

BENCH: (cont'd) of losses of cattle and sheep down mining shafts.

As against that, of course, the evidence is clear that this area was certainly well pock-marked by mining shafts prior to the applicants, Mr. Barclay and company entering onto the land as holders of the Mining Purposes Leases and, indeed, much of the mining activity has taken place prior to the leases being granted.

So, it is in effect, what I give in this matter, a value judgment, taking into account all the evidence, the criteria laid down in sub-section 124 (1)(b), and taking into account, as I have already said, the need to read out each of these leases not as an island as it were, but also the effect that they have on the surrounding properties.

I think the circumstances are such applying the criteria and looking at the effect that it would have on the surrounding property in respect of each of these particular holdings and, without overlooking of course, the all-important paragraph (d) to section 124 (1), that is, any valuation - any assessment of compensation must not exceed the market value of the land for purposes other than mining that a figure of around \$100 per holding would be fair over the period of five years.

I assess in respect of each particular matter notwithstanding the differences in acreage at \$100 as compensation to be paid by each of the holders of the leases and I'll just hear from Mr. Barclay and Mr. Allen as to the period over which they would want to pay that - the method by which they would be paid.

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