

The position of licensee under the Mining Act is rather anomalous. He may (sec. 34) prospect on certain Crown lands without being or being considered a trespasser: if he discover valuable mineral, he may (sec. 35) stake out a claim in a certain specified form, but not more than three in any one division during a license year (sec. 53)—then he may (sec. 59) apply to have the claim recorded; and on certain conditions he may (sec. 64) receive a certificate of record. Up to this time he has no right, title, interest, or claim in or to the mining claim other than the right to proceed to obtain a certificate of record and ultimately a patent (sec. 68), and he is a mere licensee of the Crown; but, after the issue of the certificate, he is a tenant at will of the Crown until he procures his patent (sec. 68).

He may transfer his interest in the claim to another licensee, or may work the claim subject to the other provisions of the Act (sec. 35). This transfer *may* be in form 11, but it *shall* be signed by the transferor or his agent authorised by instrument in writing (sec. 72); and (sec. 73), "except as in this Act otherwise expressly provided, no transfer . . . affecting a mining claim or any recorded right or interest acquired under the provisions of this Act, shall be entered on the record or received by a Recorder unless the same purports to be signed by the recorded holder of the claim or right or interest affected or by his agent authorised by recorded instrument in writing, nor shall any such instrument be recorded without an affidavit (form 12) attached to or endorsed thereon, made by a subscribing witness to the instrument." But, after the issue of the certificate of record, "the mining claim shall not, in the absence of mistake or fraud, be liable to impeachment or forfeiture except as expressly provided by this Act" (sec. 65); though, if issued in mistake or obtained by fraud, "the Commissioner shall have power to revoke and cancel it . . ." (sec. 66).

To the application of the execution creditor to be recorded, I think sec. 73 is an effective answer; and that part of the appeal should be dismissed with costs.

And the same considerations apply to the application of Forgie to have his deed from the Sheriff recorded. . . .

Was the interest of Wishart exigible, and, if so, whether as "lands" or as "goods?" . . .

[Reference to Bl. Com. II., p. 145; Co. Litt. 55; James v. Dean, 11 Ves. at p. 341; Scobie v. Collins, [1895] 1 Q.B. 375, 377; Turner v. Barnes, 2 B. & S. 435, 452; Doe Stanway v. Rock, 1 Car. & M. 549, 6 Jur. 266; Doe Kemp v. Garner, 1 U.C.R. 39;