MINERALS READY FOR MARKET WITHOUT ALLOWANCE FOR LABOR AND EXPENSES.

REVISOR'S NOTE: This section is new language derived from Art. 75, §41.

Subsection (a) contains the first provision of §41.

Subsection (b) is revised to conform to statutory interpretation in Mt. Savage George's Creek Coal Company v. Monahan, 132 Md. 654 (1918); Strathmore Mining Co., v. Bayard Coal and Coke Co., 139 Md. 355 (1921); and Superior Construction Co. v. Elmo, 204 Md. 1 (1954). However, it appears that this statute does not provide for the measure of damages if the minerals were abstracted negligently. The court stated in Mt. Savage George's Creek Coal Co. v. Monahan, supra, the first case to construe this statute, that "The measure of damages fixed by the first paragraph does not apply, if the party taking the coal was negligent, because it is only in the absence of fraud, negligence or willful trespass that the rule applies. If 'negligence' as used in the first paragraph, is not embraced in one of the terms 'furtively or in bad faith', as used in the second paragraph (and it would scarcely be contended that it is), then there is no part of the statute applicable to a case where there was negligence, and if it is included, then the appellant can not complain of the measure of damages allowed, as it even got the benefit of the deduction for the cost of removing the coal to the mouth of the mines". However, in Strathmore Coal Mining Co. v. Bayard Coal and Coke Co., supra, the court was quite explicit in stating that "fixing the measure of damages for the wrongful working and abstracting of another's minerals, does not apply, by its terms, when such wrongful working and abstraction are the result of negligence, the measure of damages in such case is that which existed prior to the passage of the statute, - that is, the value of the coal when first severed and before it was placed upon the mine cars, without deducting the expense of its severance". The court made an apparent