Throughout the Golds Fields Acts passed at various times and at present in force, there runs one leading principle as to the tenure of mining property—the "miner's right." This is made an element of title, and the possession of this document is a necessary condition to even the application for those various privileges from the Crown which are essential to the pursuit of mining enterprise. In this, our legislation has followed strictly that of the Colony of Victoria;* and, although strangely enough, the issue appears never to have been distinctly tried in the Law Courts of that colony, it is clear from the cases in which it has incidentally been alluded to, that the fact of a *lâche* in the continuous chain of miners' rights under which property has been held, *de facto* invalidates the title. The very able paper by the District Judge of the Otago Gold Fields, Mr Wilson Gray, upon "The Miner's Right as an Element of Title," (Appendix 1871, A. No. 8) seems thoroughly to exhaust the subject as regards the present state of the law upon this point in New Zealand; and the case of "Harris v. Labes," a report of which is attached to the document referred to, demonstrates very clearly the active dangers to which the tenure of mining property is exposed. By the Act of 1869, section 5, an attempt was evidently made of a remedial character in this respect; but the enactment was not sufficiently general, and it is very questionable whether it applies to other than the property of companies and corporations. It is worthy of observation, however, as showing that in the mind of the Legislature there existed the conviction that the tenure by virtue of miners' rights was insecure, and required occasional legislation of a curative nature.

The embodiment in Statutes regulating the management of our gold fields, of legislation affecting pastoral tenancy and agricultural settlement is, I think, a very grave defect in the existing law. In the Australian Colonies these questions are kept carefully clear of the "Mining Statutes;" and it seems to me more essentially necessary that this should be the case in New Zealand, where the several political divisions of the country have each their own land laws, and where the necessities of the case seem fast tending in the direction of the settlement of the waste lands becoming the battlefield of contending political parties. The Otago Mining Commission, which reported in May last year, were very decided in their recommendation that "the new statute should be separated from some matters at present mixed up with gold fields legislation;" and they proceed to remark, "The first is that of pastoral tenancy and agricultural settlement upon the gold fields. Your Commissioners believe that it would be well to dissociate these from mining law; but at the same time, seeing that they involve large questions of policy and affect important public and private interests, they recommend that these parts of the existing Acts should not be repealed or altered unless or until the Legislature sees fit to enact a comprehensive measure upon the subject, at least equally favourable to the interests of settlement."

Apart from questions of principle I would further remark that in the present Acts there are many technical errors, *e.g.* section 21, "Gold Fields Act, 1866," which was intended to be the legislation upon the subject of water rights and races, is confined to races originating in and conducted through private lands, whilst, in strange incongruity, the subsections consist chiefly of a number of regulations taken from the Otago Rules and Regulations, which were drawn only in contemplation of races through Crown lands. It isunnecessary to quote further instances which, render a careful revision of the Acts now in force absolutely and immediately necessary. A most important part of mining law, if not the most important, is that relating to the "administration of justice." I believe this to be in a very unsatisfactory condition. The jurisdiction of the Wardens and Wardens' Courts especially requires to be more strictly defined. The whole question of appeal to the Superior Courts is open to grave consideration, the present system by no means working satisfactorily, and the general opinion of the miners being in favour of following the practice of the ordinary Courts of civil jurisdiction. Part IX., of the Act of 1866 provides for "Local Legislation." This has never been carried into effect under this Act, except upon the Thames Gold Field, and the results have not been considered satisfactory either by the miners or the local Government. In the infancy of our modern gold fields, no doubt, mining Boards were to some extent a necessity, when the various forms of mining were little understood, and every field opened developed some novel integration of the precious metal with the rock or soil. Local regulations were indispensable in the absence of general knowledge, and in the absolute ignorance of the Governments and their officers of the circumstances and requirements of the mining industry. This difficulty no longer exists; the details of every kind of mining, necessary to guide legislation, are thoroughly well understood, and there exists no reason why a general code of Regulations should not be applicable to every gold field in New Zealand. Upon this subject I would desire to refer to the report of New South Wales Gold Mining Commission, 1871, p. 16—where the Commisioners summarise their arguments in the following words:—"We are unanimously of opinion that the argument as to differing local requirements is not sound, and therefore furnishes no good reason for instituting local legislative bodies."

Proposed Legislation.

I would desire now to offer, in as succinct a form as possible, practical suggestions as to the new Statute, following, for convenience of reference, the arrangement of matter adopted in "The Gold Fields Act, 1866."

Part 1.

Occupation of Gold Fields.

The "miner's right" should cease to be an element of title; whilst it remains so, there is an insecurity in the tenure of mining property which repels capital and consequently obstructs the development of the gold fields. I am aware that this is a very difficult subject to deal with satisfactorily; on the one hand we have the expediency of security of title; on the other we are met by the necessity of providing against such absolute security opening the door to abuses by which the persistently idle and thriftless,

* *Macfarlanes's Digest of Mining in Victoria*, pp. 164-166; *Atkins' Mining Statute*, p. 169 (a).