

1873.

NEW ZEALAND.

OTAGO MINING CONFERENCE, 1873,

(REPORT OF THE).

Laid on the Table of the House of Representatives on Tuesday, 29th July, 1873.

TO THE HONORABLE THE PREMIER AND THE
HONORABLE MEMBERS OF THE COLONIAL EXECUTIVE,—

The Conference of Delegates elected by the miners of the Province met here for the purpose of more effectually uniting the miners of Otago in a body to protect their interests, and to offer suggestions as to the framing of a Gold Mining Bill. Taking advantage of the offer of the Government to receive and entertain such suggestions, it would humbly place at its disposal the following report of their proceedings for consideration:—

The Conference is of opinion that there exists a great necessity for altering the present laws relating to gold mining. There are so many Acts and parts of Acts in operation on the gold fields that they conflict with each other, and confuse to such an extent, that the miner, however intelligent, cannot know exactly what is law; also, that these Acts deal with the miners too much as a separate body from other branches of the community. The Conference admits the necessity of providing the miner with a law to legalize his calling: to provide a right to mining and to mining property. But it is of opinion that the common law, unless in exceptional cases which may come under the Bill, may be fairly applied to miners.

Occupation of Crown Lands.

This subject of occupation of Crown lands for mining purposes is one of the main objects that should be treated by a Gold Mining Bill. Having carefully considered the law as it at present stands, the Conference would endeavour to point out the evils that now exist. First, then, the miner's right, as an element of title, has come under our very serious consideration, and private opinions of the legal profession have been freely received and entertained by the Conference. The object or uses of the miner's right we consider to be a means of providing revenue in proportion to the amount of Crown lands held in possession by the miner, or to give the miner a *locus standi* on the gold fields; but it is or may be used by the law as an instrument of tracing title to mining properties, which, by the present law, might act unfairly to a rightful owner of property. Though the miner may have acquired such rights honestly, a lapse occurring in the issue of right, either by present or previous owner, would be likely to endanger the whole title. The Conference agrees that the miner's right or license confers great privileges, which it would be unwise to abolish; such as giving miners a right to vote at elections, the right of grazing two head of great cattle on a gold fields common, and certain other privileges on the gold fields. It is of opinion that it would be advantageous to adopt the system of the possessory title, with the provision that a miner's right or license may be granted for any period from one to ten years, and be made available in all parts of New Zealand. This means that claims may be taken up and held without the holder or occupier being the actual possessor of a miner's right; the imposition of strict penalties for neglecting to take out a miner's right.

Under the present head, extended claims and gold mining leases may be considered, and the Conference would recommend the abolition of the present system of gold mining leases. To point out some of the peculiar objections, one is, that if a lease is applied for, even if there is no objection, a long period elapses before a proper title can be obtained. Also, in case of objection, if it should be valid, it will take at least two or three months before it can be unlocked from the applicant. The object of the mining leases appears to be to give a more secure tenure than the miner's right or possessory title, and it also seems to provide for a greater extent of land being held, by paying a rent, under more easy restrictions than a claim held by a miner's right, or as to keeping the required amount of labour employed. Another evil of leasing, which causes considerable annoyance, is that the right to transfer or sell all such properties is too cumbersome.

It is necessary to provide machinery to give a good title to mining property, which could be simply acquired and also simply transferred. The system of licensed holdings, as established by the Gold Mining District Act (Auckland), would be a good substitute both for extended claims and gold mining leases. In recommending this, the clauses referring to inspectors, forfeiture, and penalties are not included. The size of claims, and number of men to be employed, we suggest should be dealt with by

regulations made under the Act. In support of this, the Conference may state that while it believes that a Gold Fields Act should be made to embrace the whole of New Zealand, the regulations should be made to suit the different districts or Provinces. Should it be desired to define any particular area which claims should not exceed by the Act, not leaving the same to be dealt with by the regulations, the area of any claim or licensed holding should not exceed ten acres in alluvial claims, and in quartz claims sixteen acres. In the case of quartz reefs or lodes, the right should be given to follow such veins, with all their dips, variations, and angles, to any depth, although they may enter the land adjoining.

Before concluding the present subject, the Conference would recommend to the consideration of the Government and the framers of this new Gold Mining Bill, an extract from the Appendix to Captain Baldwin's report on "Mining in the State of California":—

"And be it further enacted that whenever any person, or association of persons, claim a lode or vein of quartz or other rock bearing gold, silver, cinnabar, or copper, having previously occupied and improved the same according to the local customs or rules of miners in the district where the same is situated, and having expended in actual labour and improvements therein an amount of not less than one thousand dollars, and in regard to whose possession there is no controversy or opposing claim, it shall and may be lawful for said claimant, or association of claimants, to file in the local Land Office a diagram of the same, so extended laterally or otherwise as to conform to the local laws, customs, and rules of miners; and to enter such tract, and receive a patent therefor, granting such mine, together with the right to follow such vein or lode, and its dips, angles, and variations, to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition."

Residence Areas, Business Sites, &c.

The Conference does not see any necessity for altering the present system. If altered, residence areas might be extended to two acres, and the price of business licenses should be reduced to one half.

Forfeiture and Protection.

The Conference is of opinion that all cases arising under these heads can be better dealt with by the regulations than by being embodied in the Act; but would desire to record that forfeiture, unless under aggravated circumstances of non-compliance with the law, should not be resorted to.

Diversion of Streams.

The Conference having duly considered the above subject, find that as the law now exists that hitherto such diversion has only been lawful in furthering one particular branch of industry, namely, gold mining. The Waste Lands Act passed in 1872, and which will soon come into operation, provides for water being diverted for other industries. The Conference quite concurs with the provision made by that Act; but it still leaves one point, which has hitherto been a source of particular grievance, untouched, viz. that of provision being made that two heads of water shall at all times flow down the natural bed of any creek for general use—the words "general use" being subject to be misconstrued.

Priority of Right

Has been an established rule on gold fields, and cannot be said to act unfairly. The present water rights entirely depend on prior occupation to define rights, and such a rule we should not wish to supersede. The main points under this head, which the Conference would desire to see remedied, are that a permanent license should be granted by paying a nominal sum per year for each sluice head, and they would recommend that Part VI. of "The Gold Mining Bill, 1872," with Schedule attached, be adopted in preference to existing laws (eliminating all reference to inspectors and deposit on application), and also making the yearly rental a sum, say, 2s. 6d. The great bugbear as to water rights and races has been as already stated—that of allowing two heads to flow in the natural channel of creeks if required. The Conference would recommend that priority of right should predominate in this case as in all others in gold mining; which means, that if the water is required to flow down the natural channel by any party whatsoever, when any application to divert the said water is put forth, that such an objection should be held valid, but if the right be once granted, that it should not be again cancelled except the water is required for settlement or public use, and then only by paying compensation. The right to use and construct dams and reservoirs might be granted on the same principle as water rights, while a rental, if any be charged, should be merely nominal, the privileges allowed by the Act of 1866, of carrying races through private lands, being still retained. The Conference recommends that 15 feet on each side of a race be allowed for repairs and other purposes.

Pollution of Streams and Provision for Discharge of Tailings.

The law, as it at present stands, fails to make mining a legal calling, as, by the common statute law, the miner may be liable for heavy damages in the prosecution of his avocation. A clause should be inserted in the Bill to protect the miner in respect to defiling creeks and rivers, and provision should also be made that a reasonable amount of unoccupied Crown lands be allowed for the discharge of tailings, due regard being made as to existing rights; but the Bill should embrace a clause that any occupier of the surface of the soil may be displaced as well for the discharge of tailings as for gold mining.

The Right of Entry on Ground Limited by License or Lease.

For the better protection of the auriferous lands of the Crown, instead of the right of entry being bound up in the Superintendent and Executive, as the present law enacts, if such lands are required for mining, a clause that would act fairly might be introduced, conferring on the miner a right to enter at any time on such lands by paying a deposit of a fixed sum for each acre he includes in his claim. This deposit could be made large enough to cover any surface damages incurred, and if successful in getting payable gold, the miner should be entitled to hold the land by paying compensation for

improvements only, and nothing in respect to the land, the said compensation to be settled by arbitration; in the event of the miner not finding payable gold, in restoring the soil to its former state; and if no damage to the crops has occurred, he should be entitled to receive back his deposit. The evil of locking up auriferous land is just beginning to be felt, and encouragement ought not to be given to persons to take up lands in the immediate vicinity of gold workings.

Revenue and Expenses.

Under this head the Conference would desire to record that while it is patent that all reduction of revenues ought to be met by a like reduction of expenses, it does not approve of special taxation being imposed on miners to any greater extent than any other portion of the community, and the reduction it may advocate it trusts will be looked upon as being based on fairness. The disbursement of gold fields revenue the Conference would entirely leave in the hands of the Government, trusting it will be based on the same principle of fairness.

Mining Boards.

The opinion of the Conference is that the miners are the best judges themselves of the rules and regulations by which they should be bound in the prosecution of their avocation, and it would ask the Government to appoint a Board of Miners for the Province of Otago, to be elected by the miners from certain districts, which may be either defined by the miners or by order of the Governor in Council. The Governor might appoint from among the elected body a chairman. Power should be given to said Board to make rules and regulations in conformity with the Gold Fields Act, which, on receiving the sanction and approval of the Governor in Council, should become the rules and regulations for any particular district or province of the gold fields. The mode of election, the time for which members should be elected, and the defining of the districts, may be safely left in the hands of the Government.

Administration of Justice.

The Conference having considered carefully this subject, would recommend that the present system be entirely altered. Wardens' Courts and officers were introduced in Australia, and imported from thence, for the double purpose of raising revenue and dispensing justice. When these institutions were first introduced, the gold fields were occupied principally by a very different class of people from what they are now. Gold was then got by little labour and expense, and large bodies of miners kept continually moving from place to place, to follow every new field that was discovered.

It was no doubt necessary that a special system of administering justice should be adopted; also, that special taxation should be raised from among the miners to meet the expense. The gold fields are now in possession of a more settled and enterprising class, who, by their energy and perseverance, are slowly succeeding in developing the mineral resources of the gold fields. The Wardens' Courts in the early days were excusable, and for revenue purposes were properly employed; but the population has now scattered and spread over the extensive area of our gold fields, and these Courts are too numerous and expensive to make their functions as revenue officers a profit to the State. A reduction of this class of officers will enable the legislature to relieve miners from the pressure of a taxation which bears heavily in their industry. The Conference is of opinion that the Common Law Courts in existence would meet the requirements of miners in matters between themselves, as between the general population of the country, leaving in the hands of the miners the adoption, if necessary, of Courts of Arbitration, which could deal with matters of dispute, which could be appealed from to the District Court of the Province if desired; and as most cases of any great importance or magnitude are now either finally settled by the District or Supreme Courts, while arbitration has been used to settle cases even after being before these Courts. Should the Government see its way to adopt some such principle, the Conference believes they would confer a great boon to the miners, but should Wardens and Wardens' Courts be considered to be indispensable, the Conference would recommend the system proposed in "The Gold Mining Bill, 1872," in preference to that now in existence, with a clause that in cases when Warden, plaintiff, or respondent may desire the assistance of assessors, that the Warden may summons them verbally from among persons in attendance and in the vicinity of the Court. The Conference would also recommend that the fees and costs given in Wardens' Courts be greatly reduced.

Mining on Private Property.

The Conference would recommend that either part of the Gold Mining Bill referring to the above subject (excluding the inspectorship clauses) or a separate Bill be introduced to provide for facilitating mining on private property.

General.

Most of what the Conference considers necessary in framing laws for the miners has now been enumerated, and the sum and substance may be embodied in a few words. Give the miners a legal right to mine and to prosecute their industry, give them a simple and secure title to all mining property, and deal with them as with other members of the community.

Agricultural Leasing.

The Otago Waste Lands Act of 1872, which will soon come into operation embraces, the above subject, and the Conference is of opinion that it might not also be embraced in any Gold Mining Bill; but though it admits that such leasing of lands in gold fields has been a source of great prosperity to the gold fields, it has nevertheless been attended by a considerable amount of evil by locking up from the miners large tracts of auriferous lands. The Conference desires to foster and facilitate settlement on the lands of the Province, but it is decidedly of opinion that rigid inquiry ought to be now held on all lands open for agricultural leasing, and mining reserves declared where considered necessary. It

would be wise to give the mining interest the benefit of the doubt of any land that may be considered auriferous, though not actually proved so—that such lands should be exempted at least for a certain number of years. In opening new blocks of land on gold fields, for which provision is made by the above Act, an inquiry, to be made public, should be held, and mining reserves, if desired, to be there and then set apart.

Peat Reserves.

The existence of peat in some districts of the gold fields, and the fact of its being profitably used as fuel for the inhabitants, induces the Conference to recommend that section 91 of the Otago Waste Lands Act may be extended to give licenses of certain portions of Crown Lands for the raising of peat.

Commonages.

The want of commonage for the miners and mining community has been greatly felt in many of the mining districts of Otago. The Conference desires to record their approval of the course of the present Provincial Executive in endeavouring to meet the requirements of the people in one important district, and trusts it will continue to endeavour to satisfy all demands for this purpose that may be based on fairness.

Sale of Lands on Gold Fields.

The Conference recommends that any sale of lands on gold fields should be duly advertised in the local papers. A case in point in one particular district which has come under our notice, which has caused great dissatisfaction, and gives a monopoly of rich auriferous land, hinges entirely on such sales being concluded without sufficient publication.

Gold Export Duty.

The Conference expresses its approval of the course of late legislation on this subject; and now that the ice is broken it trusts the Government will find the ways and means without imposing this tax on the industry of the miners. The tax is unfair in its principle and unjust in its operations, and is moreover a class tax.

Survey and Water Supply Subsidy.

The Conference is of opinion that the Government should place at the disposal of the Mining Associations, free of charge, the survey staff, for the purpose of ascertaining the practicability of water schemes which the Associations may deem feasible; and further, the Conference is of opinion that the rules under which subsidies can now be obtained are too stringent, and should be made more elastic, so as to include private parties. Also, that the subsidy, instead of being £2 to £1, should be £1 to £1.

Minister of Mines.

The subject has only slightly come under consideration, and is now left to be dealt with by the various Miners' Associations. That the gold fields of New Zealand are of sufficient importance to have a responsible head is undeniable, but the two governing powers already in existence might be made to conflict to a greater extent, and greater expenses might be the result.

Mint for New Zealand.

The Conference would indorse the recommendation of the Royal Mint Committee, made to the Government at last sitting of Assembly.

Final.

The Conference having concluded the business of its present meeting, trusts that its suggestions will meet with the concurrence of the Government and of the people generally.

Trusting that the foregoing suggestions and recommendations will meet with your approval,

We have, &c.,

John A. Miller, Arrow River.

W. D. Morrison, Tuapeka.

James Alexander, Dunstan.

Thomas Allan, Cardrona.

Joseph Fenis, Waitahuna.

William Gray, Table Hill.

David Anderson, Teviot.

Samuel Candiyell, Waipori.

John Edgar, Upper Shotover.

Ralph Shaw, Switzer's.

James Crombie, Cromwell and Bannockburn.