

1874.

NEW ZEALAND.

GOLD MINING LEGISLATION,

(PAPERS REFERRING TO).

Presented to both Houses of the General Assembly by command of His Excellency.

REPORT OF THE OTAGO MINING CONFERENCE, 1874.

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

The second Conference of Delegates elected by the gold miners of the province met at Clyde in the month of March, 1874, for the purpose of obtaining the collective experience of practical miners from different gold mining localities, for the better guidance of those engaged in framing a new Gold Fields Bill.

Questions of a very serious nature, not apparently hitherto provided for by previous legislation, having arisen during the last year, owing to the progress of settlement on the Otago Gold Fields, it is especially necessary that the careful consideration of your Government should be given to these insufficiencies, that, in your wisdom, such measures may become law which—while effectually protecting and rendering clear the position of the gold miner—may, at the same time, be beneficial rather than injurious to the land owners and those engaged in the cultivation of the soil.

The Conference, intending this report to be read together with that of 1872, have not thought it necessary to enter anew upon subjects already fully dealt with. That report was submitted, and, after careful consideration, was approved.

The Executive of the Otago Central Mining Association have the honor to forward, for your information, the following report of the opinions expressed by resolutions, after mature consideration and careful debate, at the Clyde Conference now closed :—

OCCUPATION OF CROWN LANDS.

The right to occupy Crown lands for gold mining purposes was necessarily considered the foundation of all gold fields legislation. The Conference, while engaged in the consideration of the law as at present in force, had still to regret that, in spite of the recommendations of the Conference of 1872 and the Otago Commission of 1871, the defects complained of are still without remedy.

The miner's right, considered as a source of revenue and element of title, often is the cause of great hardship to owners of mining property. Considering the high export duty charged on gold, and that where no duty is charged—as in Victoria—the price of such right is only 5s., it appears unreasonable that so high a charge as £1 should be exacted. It is not, however, only the mere pecuniary burden of being compelled to take out and punctually renew a miner's right which weighs upon the miner, but the fact that neglect to do so involves the loss to him of his property and rights. This is a view of the question which has already forced itself upon the consideration of Parliament, and by section 5 of "The Gold Fields Act Amendment Act, 1869," an attempt was made to provide a remedy. The Conference recommends that the matter should be the subject of careful consideration, and that provision should be made for protecting the revenue (should it be considered necessary henceforth to raise revenue in this way) by the imposition of moderate penalties not involving such grave forfeitures. They are also of opinion that miners' rights should be made available for the occupation of Crown lands throughout the colony, without regard to the province in which they may have been originally issued ; that miners' rights should be issued for terms of years, and consolidated miners' rights for the use of public and private companies. It appears most unreasonable that valuable mining property should be forfeited, owing to some defect in the proof of title through miners' rights and their renewals—a

defect which an investor might not easily, at the time of purchase, have been aware of. The hardship of one individual having to submit to the maintenance of as many miners' rights as he may happen to have claims or shares in claims, is also complained of.

The necessity of amending the present law, by introducing provisions in a new Gold Mining Act, making it legal to discharge *debris* upon, and otherwise to occupy waste Crown lands, in the pursuit of *bona fide* mining, is, in consequence of the fast-increasing settlement year by year, rendered imperative. More especially should provision be made for the legal discharge of such mining *debris* into and through water-courses and streams. These rights have been hitherto assumed.

The Conference, after careful consideration of the danger of monopoly arising through the granting of mining leases, consider such grants—as encouragement to the greater development of mining—should be encouraged by their being obtainable directly through the Wardens' Courts; their area being considerably increased; and also by the reduction in the annual rental to £1 per acre. More especially is power to grant extension of area—on *bona fide* unopposed applications—desirable, in the opinion of the Conference, with regard to mining leases on quartz reefs. The deposit of money by objectors, who may be interested in the areas applied for as leases, appears an invidious and unnecessary exaction.

It is thought reasonable and politic that the cancellation of special claims granted under clause 12 of the Act of 1866, unoccupied and without protection for the space of four months, should, on application, be effected at the discretion of the Warden of the district in which such claims are situate.

With regard to occupation of Crown lands for quartz-reefing purposes, the Conference wish again to enforce the recommendation already laid before you—a recommendation which is based upon the law as existing in other gold-mining countries,—

That, although the area of any quartz-mining lease may be marked or otherwise defined, yet that the right should be given to follow veins, with all their dips, variations, and angles, to any depth, although they may enter the land adjoining.

The Conference would also recommend the reservation of at least one chain in width being made, in all cases, on each side of the banks of rivers and streams running through land to be submitted for sale.

WATER RIGHTS.

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, on payment of 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 inspection 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 whomsoever, when any application to divert the said water is put forward, 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 on payment of 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 fifteen feet on each side of a race be allowed for repairs and other purposes.

The Conference is of opinion that forfeiture of rights held under water licenses should not be resorted to except in cases of aggravated non-compliance with the law. Taking into consideration the difficulty that frequently arises in proving every step in the sustainment, by renewal or demise, of a water license of several years' standing—a difficulty which, if irreparable, leads, under the present law, to a forfeiture or heavy fine—the Conference would recommend that a provision should be made whereby proof of title might rest solely upon the latest transfer or renewal of such license, provided that the Warden was satisfied there was no suspicion of fraud.

With the object of encouraging all industries, the Conference see no reason why the owners of water races granted specially for gold-mining purposes, should not be allowed to dispose of water so conveyed or diverted for irrigation, for driving machinery, or for employment in general purposes, and recommend that such powers be granted them.

MINING BOARD.

The Conference earnestly hope that the miners will be granted power to frame their own Regulations and By-Laws, by means of the creation of a Mining Board for the Province of Otago, as provided for in the Act of 1866, clause 56. A petition to that effect will be forwarded to your Government.

ADMINISTRATION OF JUSTICE.

It is suggested that a Roll of Assessors, composed of persons, holders of miner's rights, should be kept in the Wardens' Courts; and from such Rolls, Assessors should be chosen by ballot to hear and decide mining disputes. The Conference of 1872 clearly perceived the advantage of such a system, but overlooked the difficulty of obtaining suitable Assessors in the vicinity of the Court at the time of trial, as such attendants would, in nearly all cases, be interested parties or friends of either side. This recommendation, then, is not a contradiction, but an amendment upon that of the previous Conference. In all cases reasonable expenses should be allowed such Assessors, at the expense of the litigants.

AGRICULTURAL LEASES.

The Conference also wish to draw attention to the insufficiency of information afforded by the applicants, which is, in too many cases, an obstacle in the way of reasonable objections being lodged. They would recommend that all applications be heard by the District Land Boards, and that survey should in all cases precede hearing; that definite boundaries and precise localities should be clearly stated in the necessary advertisements; and that, where a suspicion arises during a first three years' lease that the ground is payably auriferous, a renewal of lease should be only conceded, and the Crown grant be withheld. The Conference wish to indorse the following recommendations of the Conference of 1872, as being especially wise and likely to prove beneficial:—

“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, on 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 heading the Conference, while fully indorsing the protests of former Conferences as to the injustice of subjecting the gold miners to special taxation, and the equity, on the other hand, of liberal concessions and disbursements to mining industry out of gold fields revenue, wish, on this occasion, simply to deal with the excessive charges levied on compulsory surveys. Surveys of claims, it is thought, might be reasonably borne by the Government, or, at any rate, that the necessary mileage charges should be abolished, and especially the abuse of a surveyor being able to charge mileage fees on each of several surveys made at one locality at the same time. They would also recommend the reduction of the business license to £1 per year, as it seems unfair to charge what is regarded as the fee-simple in towns when no objection is made to a sale as annual rental in others, where, for practical reasons, a sale is indefinitely postponed. Business men engaged in handicrafts, or in the supply of dairy produce, should, it is thought, be exempted from the business license altogether.

CANCELLATION OF ABANDONED RIGHTS.

For the better facility of utilizing abandoned mining property, the Conference recommend that certificates for any privilege, not including water races, be liable to cancellation if not indorsed by the Warden within one year and sixty days from any previous similar indorsement; and that all such certificates should be brought to the Warden once in twelve months for such indorsement.

COMMONAGE.

The Conference desire to urge the necessity of preserving to the miners, in settled localities, a reasonable right of depasturing horses and dairy cattle. Commonages of liberal extent, sufficient to meet such requirements, should, in the opinion of the Conference, be granted, and the pastoral lessee be compensated when land is withdrawn specially for such purposes.

PEAT RESERVES.

It is again recommended that the provisions of section 91 of “The Otago Waste Lands Act, 1872,” be extended to apply to the issuing of licenses for the raising of peat for fuel.

ASSAY OFFICE.

The Conference wish to draw the attention of the Government to the combination of the Banks—a combination which tends to lower, unconditionally, the price of raw gold; and, as a preventative against such arbitrary proceeding in the future, would recommend the establishment of a central Assay Office in the capital towns of the gold mining provinces—the want of such an office being especially felt in the Province of Otago.

LEGAL MANAGER FOR GOVERNMENT WATER RACES.

Looking forward to the probable collision of interests between the Government, as constructor and manager of mining races and sludge channels, and the holders of private mining property, the Conference is desirous of drawing attention to the necessity—which, indeed, to some extent already exists—of some person being appointed who could defend the Government in the enjoyment of its rights undisturbed, and also be responsible against injuries unintentionally done to holders of private property.

PREVENTION OF ACCIDENTS.

It being very much to be regretted that accidents in mining so often arise on the Otago Gold Field—which it is thought in many cases are preventive, if ordinary caution were observed—it is recommended that the Warden be given power, on the application of any four persons, to order a survey or inspection of any claim. That the expense of such inspection be borne by either the claimholder or the applicants, at the Warden's discretion. That any alterations or safeguards, reported as necessary for the safety of life, be liable to be enforced under penalties.

SAFETY OF PUBLIC DOCUMENTS.

The Conference desire to point out, under the present stringent laws with regard to the proof necessary to be tendered in disputed mining cases of all the links in renewals from time to time made in mining property, that great care should be taken of all such property in the hands of the Court; the danger of loss, through inability to prove title, is immensely increased by the risk of fire duplicate copies transfers and blocks are submitted to in the district Court Houses. This danger might be obviated greatly by the general use in such Court Houses of fire-proof safes.

The Conference, in conclusion, would draw attention to the great expense borne by the miners in obtaining the information placed at your Government's disposal in 1872 and 1874, and respectfully request your Government's assistance, by grant or subsidy, to the Central Association, whose continued exertions cannot fail—by moderating and leading public opinion on the gold fields—to be highly beneficial to the future legislation of New Zealand.

We are, &c.,

JAMES HEALEY, Arrow.

THOMAS SIMS, Clyde and Alexandra.

JOHN EWING, St. Bathans.

W. L. FORSTER, Moke Creek and Moonlight.

JOHN EDGAR, Upper Shotover.

C. F. ROBERTS, Mount Ida.

— WRAGGE, Switzers.

JAMES BARCLAY, Maerewhenua.

W. BUCHAN, Bannockburn and Carrick Range.

C. COLCLOUGH, Cromwell.

No. 2.

The Hon. J. VOGEL to Mr. J. HEALEY and OTHERS.

GENTLEMEN,—

General Government Offices, Wellington, 16th June, 1874.

I have the honor to acknowledge the receipt of the Report of the Otago Mining Conference, 1874.

2. I will cause the document to be laid before Parliament, so that it may be available when legislation is proposed concerning any of the subjects to which the report refers.

3. I desire to say that, personally, I have much sympathy with the wants of the gold miners. I was one of the representatives of the district of the gold fields; and, from associations extending over many years, I naturally feel largely interested in all that affects the welfare of the gold fields. But I must beg you to remember, that in New Zealand the management of the gold fields has never been more than nominally in the hands of the Colonial Government; that the entire administration and control have practically vested with the Provincial Governments; and that, therefore, it is desirable that the representations of miners should be made through the Provincial Governments.

4. A Bill dealing comprehensively with gold mining was prepared for the last Session of the Assembly. It was ably drawn by Mr. Haggitt, Mr. Shepherd, M.H.R., and Mr. Mouat; and it appeared to be a full and exhaustive measure. The Government did not, however, find that it commanded hearty sympathy in the House of Representatives; whilst there was so much difference of opinion exhibited by members representing districts within the gold fields, that there was no possibility of passing the measure.

5. The Government have, pending the receipt of answers to a circular letter addressed to the Superintendents, been unable to come to a conclusion as to what course shall be adopted with respect to the Bill next Session. Copy of the circular letter is appended for your information.

6. I would not have you suppose that I imply that any disposition to disregard the interests of the miners has been evinced by the Provincial Governments in charge of gold fields. On the contrary, I am bound to say that these Governments appear to me to be thoroughly conscious of their gold fields responsibilities. The difficulty in the way of legislation seems rather to be, that the circumstances of the several fields are so different that what may be suitable for one locality creates opposition in others.

7. Whenever a measure relating to any of the subjects referred to in your report is before the House of Representatives, the Government will give to your recommendations very careful consideration ; but I am not able to further assure you respecting the course which they may take.

I have &c.,

Messrs. James Healey, Thomas Sims, and the other
Members of the Otago Mining Conference.

JULIUS VOGEL.

No. 3.

Sent to the Superintendents of Auckland, Marlborough, Nelson, and Westland.

(A letter to the same effect was addressed to the Superintendent of Otago on 21st April, 1874.)

(Circular No. 15.)

SIR,— Colonial Secretary's Office, Wellington, 14th May, 1874.

I herewith enclose the Bill to amend the Laws relating to the Gold Fields, which lapsed last Session in the House of Representatives.

2. The management of the gold fields, though nominally confided to the Governor, has really, through the system of delegation adopted, vested in the charge of the Superintendents, with more or less assistance from their Provincial Councils and Executives.

3. There is evidence that the conditions which may suit the gold fields in one part of the colony are not necessarily suitable to those in other parts.

4. The Government desire to ask your Honor,—

(1.) Whether, in your opinion, there is that pressing need for legislation on the subject, which makes it necessary or desirable to deal with the matter during the coming Session ; or whether it would be better to defer legislation ?

(2.) Supposing your Honors think legislation during the coming Session desirable, do you approve the Bill under consideration, or in what respect would you advise its amendment ?

I have, &c.,

DANIEL POLLEN.

His Honor the Superintendent.

No. 4.

His Honor the SUPERINTENDENT, Marlborough, to the Hon. the COLONIAL SECRETARY.

SIR,— Blenheim, 27th May, 1874.

In answer to your circular letter of 14th instant, asking me whether, in my opinion, there is that pressing need for legislation on the subject of gold fields as to render it necessary to deal with the matter during the coming Session, I am of opinion that, as regards the Province of Marlborough, no such pressing need for immediate legislative action exists.

I have, &c.,

A. P. SEYMOUR,

Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 5.

His Honor the SUPERINTENDENT, Westland, to the Hon. the COLONIAL SECRETARY.

SIR,— Superintendent's Office, Hokitika, 1st June, 1874.

I have the honor to acknowledge the receipt of circular No. 15, under date the 14th ultimo, forwarding a copy of the Bill to amend the Laws relating to the Gold Fields, which lapsed last Session in the House of Representatives, and asking my opinion as to whether there is "that pressing need for legislation on the subject, which makes it necessary or desirable to deal with the matter during the coming Session."

In reply, I have the honor to state that the Provincial Council is at present sitting, and I will immediately submit the Bill to their consideration, and furnish the Government with an early report of the result.

I have, &c.,

JAMES A. BONAR,

Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 6.

His Honor the SUPERINTENDENT, Nelson, to the Hon. the COLONIAL SECRETARY.

SIR,— Superintendent's Office, Nelson, 24th June, 1874.

I have the honor to acknowledge the receipt of your circular letter No. 15, of the 14th ultimo, forwarding a copy of the Gold Fields Bill which lapsed last Session in the House of Representatives, and requesting me to state whether, in my opinion, there is that pressing need for legislation on the subject, which makes it necessary or desirable to deal with the matter during the coming Session, or whether it would be better to defer legislation; and secondly, whether, supposing I think legislation during the coming Session desirable, I approve of the Bill under consideration, or in what respect I would advise its amendment.

I beg to say, in reply, that although I think it highly desirable that the existing Gold Fields Acts should be consolidated, and that some defects in them, the existence of which has been proved in their practical working, should be amended, I do not think there is such pressing need for legislation on the subject as to make it necessary to deal with it during the approaching Session of Parliament.

I have, &c.,
OSWALD CURTIS,
Superintendent.

The Hon. the Colonial Secretary, Wellington.

No. 7.

His Honor the SUPERINTENDENT, Westland, to the Hon. the COLONIAL SECRETARY.

SIR,— Superintendent's Office, Hokitika, 19th June, 1874.

I have the honor to acknowledge the receipt of your circular No. 15, 14th May, 1874, enclosing a Bill to amend the Laws relating to the Gold Fields, which lapsed last Session in the House of Representatives, and requesting me to inform the Government whether I am of opinion that there is pressing need of legislation during the coming Session, and if so, whether I approve of the Bill enclosed.

In reply, I have the honor to inform you that, having consulted with my Executive, I do not consider there is any pressing need for legislation this year.

I have, &c.,
JAMES A. BONAR,
Superintendent.

The Hon. the Colonial Secretary, Wellington.

(No reply from Auckland or Otago.)

By Authority: GEORGE DIMSBURY, Government Printer, Wellington.—1874.