

If care is taken that this clause is enforced in all cases where lands are about to be withdrawn from gold fields for purposes of settlement or granted for settlement without such withdrawal, the conflict between water-rights which may hereafter merge with the land in the purchaser or lessee of the freehold and rights over the same waters which have been or may be granted by Statute to others will in a great measure be prevented. "The Mines Act, 1877," also appears to be intended, to a great extent, to protect the miners in the orderly occupation and use of claims or water-races granted under its provisions as against any superior claim made by the holder of any Crown grant or conveyance. The law may safely be assumed in accordance with the evident intention of the Legislature to protect rights granted to goldminers since the coming into operation of the Statutes of 1877, until the Courts of the colony decide to the contrary.

The problem, then, which, as it appears to the Committee, has to be solved, is the satisfactory adjustment of relations between the water-rights now claimed by those with a greater or lesser interest in the soil and the statutory rights to the occupation and use of water-races granted under Statute prior to 1877.

In seeking a solution to the problem the following considerations suggest themselves: Is it necessary for the Legislature to interfere to give value to the rights held by either the land occupiers or the miners—that is to say, to arbitrarily divest the holder of title in land of a certain right in the waters running through or bounding his property which the common law otherwise must be assumed to give him, or to recommend the Government to cancel the rights held by the miners in favour of "bonâ fide settlers" or "some public use or purpose," under the provisions of clauses 34 and 35 of "The Mines Act, 1877."

Replying to the considerations that have suggested themselves, the Committee are of opinion that at the present time no legislative enactment, restriction, or recommendation is necessary or expedient. The question in dispute as between the miners and the land occupiers has usually settled itself by mutual forbearance and mutual compromise; where the special circumstances are so strong as to prevent such local adjustment a special remedy can generally be applied.

The conflict of interest at Maerewhenua affords an example of a special case where a special remedy is obvious and easy of application. In this case the water is desired for domestic and sheep-washing purposes. At a point in the Maerewhenua River, near Livingstone, as much clear water can be taken as would be sufficient for the purposes of the sheep-farmers and other settlers below. The ground from thence to Duntroon offers peculiarly-advantageous facilities for race-construction of the simplest and most inexpensive kind, and of other works—one fluming only would be needed.

The cost of such a work has been roughly estimated at about £1,000, which, considering the value of the properties at stake, cannot be considered an expensive solution to a very vexed question.

From the evidence of the Hon. R. Campbell, one of the petitioners, the Committee have reason to believe that the question of riparian right on the Maerewhenua River would be waived were a clear and sufficient water supply assured to the settlers below the gold field. The Committee therefore recommend, in the special case before them,—

1. That the Government should communicate with the County Council of Waitaki, asking what responsibility that Council is prepared to take in providing a water supply for the settlers on the lower reaches of the Maerewhenua.

2. That the Government should communicate with the Miners Association, at Livingstone, asking what aid in labour the miners would be prepared to find in the construction of a water-race.

3. That, if the replies to these communications should evince a local desire to meet the Government in the solution of the question, a grant in aid should be given by the Government.

4. That in any case, wherever practicable, the Government should immediately open several blocks of Crown lands near Livingstone, not less than 500 acres and not more than 1,000 acres in any one block, to be set apart for applications on deferred payments or agricultural leases, in sections of from 100 to 320 acres, taking care that such blocks shall not include natural outlets from auriferous ground, or ground known to be payably auriferous.

The Committee attach value to this last recommendation as being likely to convert the miner into a settler conservative of the rights attachable to the possession of land. The evidence taken on the subject is attached to this report.

18th October, 1878.

#### No. 328.—PETITION of WILLIAM BRISLANE.

THE Committee, having considered the petition of William Brislane, Mining Prospector, have directed me to report—

That the petitioner could obtain the aid he seeks for by applying to the Government for recognition under the regulations affecting aids to prospecting for gold or other precious minerals of the 14th January, 1878.

The Committee recommend the proposed work as a fair one for recognition as being likely to open a large field of auriferous leads not hitherto discovered, and recommend the Government to lay down conditions, as to proof of labour and time of operations, as may be considered necessary in the case of the petitioner under the aforesaid regulations.

18th October, 1878.