

concerned in the maintenance of the due and effective Administration of Justice. If an important interest such as that of Gold-mining is left without adequate provision being made in this matter, the evil consequences are not merely confined to that particular interest. That sufficient regard to the considerations just stated is not evidenced by the provisions of the present Gold Fields Act, and Regulations can hardly be doubted by even the most superficial inquirer. In the first place,—as indeed might have been expected,—we have the unanimous testimony of all the witnesses whom we have examined—a host of witnesses, composed not merely of miners, but of storekeepers, paid Gold Commissioners, stipendary Magistrates, and ordinary unpaid Justices of the Peace,—that the present plan of Judicature, established by and existing under the Act of 1866, is worse than useless.

Disregarded in our existing system.

34. The entrusting of the hearing and settlement of disputes to unpaid Magistrates as the Court of first instance is universally disapproved, and we think justly so,—while the constitution of the Court of Appeal calls for still stronger condemnation. An appeal from one person who knows nothing about the matter upon which he has adjudicated, to two persons equally ignorant of the subject, can hardly be very valuable or satisfactory; while an appeal from one person, such as a Commissioner, who may have some acquaintance with the matters in question, to two persons wholly unacquainted with these matters, is still less likely to work well. Such however, curious as it may seem, are the provisions for the Administration of Justice upon the Gold Fields under the present Act. The well-grounded objections to the entrusting of the settlement of mining disputes to the ordinary unpaid Justice, by no means involved any discreditable reflection upon a most respectable body. That no such reflection can fairly be said to be intended, sufficiently appears from the fact that the unpaid Justices themselves agree in the objections to such a plan. And indeed it would seem unnecessary to point out that the special knowledge requisite for the comprehension of mining disputes is not to be acquired as is knowledge upon ordinary matters. The technical phraseology alone is matter for some little study; while the diversities of interests involved, and the many different classes of mining upon which questions may arise, necessarily present features of peculiar difficulty. We quote the evidence of one Magistrate,—a gentleman for years resident upon Gold Fields, and, as all Magistrates ought to be, a man of education, intelligence, and respectability. That witness, Mr. William Cleghorn, states:—"I am an unpaid Magistrate resident upon a Gold Field, and I strongly condemn the system of requiring unpaid Magistrates to adjudicate in cases of mining disputes. It is not fair either to the miner or to the Magistrate. In the great majority of cases the Magistrate knows nothing whatever about it; and even if he does, he is required to do a great deal of very disagreeable work which he ought not to be called upon to do. Such Magistrates are always liable to imputations of partiality and injustice; no matter how fair they really may have been, many people, and certainly the losers, will think and say otherwise." Again, Mr. Harold Maclean, who was for many years a Gold Commissioner, and who speaks in this matter with unquestionable authority, says—"I desire to express, in the strongest possible way, my disapproval of those provisions of the present Act which vest in the unpaid Magistracy administrative functions. I look upon those provisions as, to say the least, quite impracticable. These gentlemen are, for the most part, unacquainted with the nature of the questions, and are indisposed to act. Gold-mining disputes are too troublesome and difficult to be dealt with voluntarily, and it is not to be expected that unpaid Magistrates should devote the requisite time to the special study necessary. There are many other considerations which deter a Magistrate from interfering in such a matter." Many other Magistrates, paid and unpaid, who have been before us have expressed the same view; and we have thought it better to quote these opinions pronounced by two such witnesses than to set forth here the same opinions from miners not Magistrates; but, as we have before said, the testimony of all classes of witnesses has been given strongly in concurrence with these views. Without then desiring for one moment to impute any improper conduct, either on the score of unfairness or of negligent discharge of duty, to the unpaid Magistracy, we are clearly and unanimously of opinion that the entrusting of judicial functions to them has been a mistake, and a continuance in such a mistake would be absolutely fatal to the efficient management of the Gold Fields.

Universal disapproval of entrusting settlement of gold mining disputes to unpaid Magistrates.

35. The reasons stated by us against the ordinary unpaid Justices having judicial power in Gold-mining disputes will have indicated that such powers should exclusively be vested in officials whose duty it should be to acquire—if they do not already possess—that special and indeed technical acquaintance with the subject which to some extent is indispensable to the efficient discharge of judicial functions upon matters of so special a nature. Confidence in the decisions pronounced cannot be entertained in the public mind when the persons adjudicating, however zealous, however patient, however industrious, and however honest, lack knowledge. And the objections on the ground of absence of requisite knowledge of the subject which have been expressed with regard to unpaid Magistrates apply with undiminished force, and with scarcely an exception, to the stipendiary Magistrates who are merely *ex officio* Gold Commissioners. From all sides we have had evidence of the utter inadequacy of the present staff of Commissioners to the requirements of the Gold Fields; and not only is the number (three) wholly insufficient, but by some recent departmental arrangements these three officers are practically prevented from visiting the legitimate sphere of their duties as Gold Commissioners. The three Commissioners—Mr. Johnson, Mr. Buchanan, and Mr. Clarke—have pronounced their strong disapproval of the present arrangements, and Mr. Buchanan thus forcibly expresses the view shared by himself and his brother Commissioners upon this point:—"There are at the present time in reality but three Gold Commissioners, the 'Commissioners in charge,' as the Police Magistrates but seldom act in their capacity of Gold Commissioners, the duties of deciding mining disputes being left to the unpaid Magistrates, who in their turn avoid acting as

Necessity for appointment of adequate staff of Wardens.