

of Chinese;—but we are of opinion that the above-mentioned power of demanding production of miners' right would answer the purpose, and would, if not entirely prevent, at least most materially check the evil of evasion.

TENURE—REGISTRATION—SURVEY—FORFEITURE.

54. We are unanimously of opinion that the taking out of a miner's right shall be considered Miner's Right: as absolutely necessary to conferring upon any individual the status of a gold-miner, and that the possession of such document should be an indispensable condition precedent to any authority to mine for gold on any of the public lands of the Colony. This muniment of title, merely as an authority to mine, is simple, and easily understood, and cannot, we think, be improved upon. We have elsewhere stated that we think the miner's right should only continue in force until the end of the then current year, *i.e.*, the 31st of December in each year (except in the case of rights to endure for a term of years); for uniformity of period of duration is manifestly a great benefit; but with regard to the *renewal* of miners' rights, we do not approve of the present system by which the neglect to renew, immediately upon the expiration of the year, involves the forfeiture of the claim held by the person so making default. It will hardly be believed that, while this arbitrary rule is in force, the official arrangements are so defective that in many instances a miner's right cannot be obtained until after the commencement of the new year. Assuredly then, either facilities should be afforded for obtaining miners' rights for the ensuing year a month at least before the expiration of the current year, or a month's grace should be given to the miners, during which the failure to possess themselves of the document should not involve any penalty.

55. The forfeiture of claims upon certain occasions of default involves considerations of great Forfeiture. moment, and your Commissioners have bestowed much anxious thought upon this branch of the subject. A large preponderance of the evidence tends to show that there exists very grave objections to forfeiture as a penalty. The most obvious objection is its gross inequality. For if forfeiture be the uniform penalty, then it may not unfrequently happen that for precisely the same quality of offence two different claimholders may be visited with outrageously disproportionate punishment. To take a simple example:—A owns a claim worth £1,000; B owns another claim worth £5. A and B both neglect to renew their miners' rights; both claims are forfeited. There may indeed be many circumstances of excuse or extenuation in A's case which do not exist in the case of B, and yet though A's fault be so much more the venial, A's punishment is practically nil; and indeed owing to the comparative worthlessness of the claim of B he will be permitted to retain that which was theoretically forfeited. This is no strained instance for the purpose of pointing an objection, and it certainly does seem curious that after twenty years of Gold Fields legislation such a blot should have been allowed to remain upon our code. The spirit of progressive intelligence does not seem in this matter to have descended upon our Legislature. Again, absence from a claim for a certain period (three days) renders it liable to forfeiture,—forfeiture summarily enforced by a most odious and demoralising practice known as "jumping" (a practice justly stigmatised by some witnesses as "legalised robbery," and concerning which we shall have some more detailed observations to make before this Report is concluded). Now, the same observation as to the flagrant inequality of punishment applies to this instance of forfeiture. But in order to show how excusable, or indeed how utterly without culpability may be the conduct of a claimholder thus absent, we may cite the evidence of one witness, Mr. James Ellis, of Major's Creek. That witness says:—"Jumping is a great evil. From any cause that might arise from accident, a man's claim may be jumped. I went myself one day to Jembaicumbene to buy a chaff-cutter; I was stopped by the floods for three days; when I got back my claim was jumped. I had been watched away. It cost me nearly £100 to get my claim restored to me." Surely it cannot be consistent with wise legislation that this kind of thing should exist.

56. We are, however, fully aware that, although on the one hand, a tenure so insecure as to be Necessity for compelling fair working of claims. liable to destruction upon the happening of contingencies always probable, often inevitable, must operate most prejudicially to the development of our mineral resources; yet, on the other hand, an absolute security of title, opening the door to abuses by which the persistently idle and thriftless may benefit by the labours of the energetic and careful, may be attended with almost equally pernicious results. Your Commissioners recognize the ability with which, in the main, this branch of the subject is treated by the Victorian Commissioners of 1862; and we emphatically endorse most of the views elaborately propounded by those gentlemen in their Report (See particularly, Sections 32 and 33). Some effective means must therefore be devised which, without harshly oppressing or unduly restricting the miner, will compel an efficient working of his claim.

57. We recommend that the penalty for default in renewing a miner's right should, in addition Penalty for not renewing miners' rights. to the payment of the fee, be a fine of not more than forty shillings. We draw the distinction between the case of a miner who has taken possession of a claim without having a miner's right at all, and the case of one who having held his claim under miner's right has neglected to renew it upon its expiration. In the one case there would be no right whatever to hold any ground, and provided there had been a prior application for the ground, the defaulter should be compelled, in addition to the payment of a fine, to immediately give up possession; whereas in the other case we think an absolute forfeiture should not take place, but the payment of the fine to be considered an atonement for the offence. The period during which the right to renew on these terms should remain should of course be limited, and we recommend the period of limitation to be one month. After that period the position of the defaulter to be that of one having had no miner's right at all.