

Penalty for non-working in accordance with the Regulations.

58. We have before said that we consider that some means must be devised for compelling the fairly efficient working of claims, as otherwise very considerable injury may be done to the adjacent claimholders, and generally the development of the Field may be retarded. But your Commissioners consider that by a stringent system of fines, the payment of which fines can always be enforced by levying upon the claim, or interest in the claim, of the defaulter, this desirable object can be secured without having recourse to the objectionable system of forfeiture. It matters not, we think, whether the penalty be in the shape of a fine direct, to be levied if necessary upon the claim, or of a forfeiture of the claim, redeemable on payment of a certain sum. We desire that in no case shall the forfeiture—as such—be considered as absolute and irredeemable. We may here state that in this and in all other cases of fines for breaches of the Regulations, we recommend that the moneys so derived shall be bestowed upon the hospital or some other charitable institution of the district. In a plan such as this we think no odium can possibly attach to any person who, by laying a complaint against a defaulter, puts the Law in motion to compel the performance of an obvious duty; and in the possibility of the defaulter having to give up his claim through inability to pay the fine, there will be sufficient inducement held out not only to adjacent claimholders, but to the miners of the Field generally, to resort to legal proceedings for a cause so clearly just.

Powers to award compensation for injuries through non-working, &c.

59. In addition to the power of pronouncing a penalty by way of fine or redeemable forfeiture, we recommend that the Warden be empowered to order the payment of a sum of money as compensation for any damages proved to have been sustained by any individuals in consequence of default through non-working or from any other cause; such damages to be assessed, if required by either party, by Assessors chosen by the Warden.

“Jumping” an intolerable evil.

60. Somewhat allied to this question of forfeiture is the system known as “jumping.” So long as it is law that upon certain things happening, thereupon *ipso facto* a claim is forfeited, without the necessity for any recourse to legal proceedings, or for any authoritative official adjudication of forfeiture, so long will there be a class of persons, generally idlers and “loafers,” possessing neither industry nor energy to prospect for themselves, or to take up fresh ground and bestow upon it the preliminary labour of opening the claim, and preferring systematically to lie by and watch for the tripping of others more industrious and energetic than themselves, in order, upon any real or even any merely alleged default, to take possession, as for a forfeiture incurred, of the claim upon which much beneficial work may have been expended. This is what is called “jumping”; and it is a system so fraught with evil, and so inherently unjust,—holding out as it does a premium to laziness, to dishonesty, and to mere bullying brute force,—that it is to us a matter of wonderment how a system so demoralizing to the entire community can have obtained so long. The one attempted justification for permitting this system is that it checks the non-working of claims. We have shown that we also desire to check that evil, and have indicated a fair and legal manner in which it may effectively be done. We content ourselves with saying, upon this matter, that in no case should a claim be considered as forfeited unless after an adjudication to that effect by the Warden, and then only in the manner indicated in the preceding paragraphs of this Report.

Consolidated miner's right recommended; also the continuance in force for a term of years of miners' rights.

61. We think that, with the exception of the annual fee which we have already said we would continue at ten shillings, the provisions of the 4th section of the Victorian Mining Statute of 1865 might with advantage be introduced into our mining legislation; and we therefore recommend its adoption in any Statute to be passed upon the subject of Gold Fields Management. That section is as follows:—“It shall be lawful for the Governor in Council to cause documents to be issued, each of which shall be called a ‘miner's right,’ and which shall be in force for any number of years not exceeding fifteen; and any such document shall be granted to any person applying for the same, upon payment of a sum at the rate of ten shillings for every year for which the same is to be in force. It shall also be lawful for the Governor in Council to cause other documents to be issued, each to be called a ‘consolidated miner's right,’ and to be in force for any number of years not exceeding fifteen; and any such last-mentioned document shall, on the application of the Manager or any Trustee or Trustees of any Company of persons who shall have agreed to work in partnership any claim or claims registered under the provisions hereof, be granted to such Manager, Trustee, or Trustees, on behalf of the persons who shall from time to time be members of such Company; and shall, during its continuance, be held by the Manager, or the Trustee or Trustees for the time being of such Company, on behalf of such last-mentioned persons; and shall be in lieu of, and represent, and be of the same force and effect as a number of miner's rights granted for the same period of time equal to the number of the miner's rights by virtue of which the said claim or claims shall have originally been taken possession of; and the same shall be granted to any person aforesaid so applying, on payment of a sum at the rate aforesaid, multiplied by the number of miner's rights which the same is to represent; and every such document shall be dated of the day and at the place of the issuing thereof, and shall date the number of years for which it is to be in force, and contain the Christian name and surname, and the residence of (in case of a miner's right) the person in whose favour the same shall be issued, and (in case of a consolidated miner's right) the Manager, or Trustee or Trustees to whom, and the name of the Company on whose behalf, the same shall be issued.”

Consolidated miner's right.

Registration.

62. The advantages of a well-devised and judiciously administered system of registration are great. Among the most obvious of these advantages may be enumerated—(1) increased security of tenure, (2) inducement to persons to advance money upon security of the claim, (3) easy identification of claim, and consequent prevention of dispute and litigation, and (4) facility in proving title. The objections to registration are, so far as we can see, only these: the time and trouble expended in attending the Registrar's Office, and the exaction of a fee for registration. The