155. Where no written agreement shall have been entered into as above, we suggest that, in the Mining Statute, under the head "Mining Partnerships," there shall be fixed some conditions of general application,—to be framed with special regard to the contingencies and requirements we have herein adverted to,—and that compliance with these conditions shall be enforceable in the same way as already specified with respect to special written agreements.

A form of fixed conditions of general application, in absence of special agreement, recommended.

156. Any special agreement modifying, qualifying, or at variance with, the general statutory conditions, must be registered, otherwise the partnership to be considered as under such general conditions and no others; and indeed, in no case would we desire that any exemption from the ordinary Common-Law liabilities and incidents of co-partnerships should be granted, unless on condition of full and complete registration.

Registration absolutely necessary, if any exemption from ordinary liability to be conferred.

MINING ON PRIVATE PROPERTY.

157. On the first discovery of gold in payable quantities in New South Wales, the right of the Crown to the gold on alienated land was asserted and enforced, and continued to be so enforced during the period when any considerable amount of revenue was derived from a direct charge on the miner, in the form of a high license fee. Although this charge for gold-mining on private land has been discontinued for some years, the opinion given by Sir William Manning indicates that no change in the law has been made which would invest the ownership of the gold in the proprietor of private land, or that would prevent the Crown from exercising the right to mine for gold on such land, even without compensation to the owner for any reasonable damage that may result from mining operations. The landowner has purchased his property subject to this liability, and has therefore no just cause of complaint if the Crown exercises its right to mine, or prevents him from taking the mineral deposits belonging to the Crown and using them for his own benefit. In England, where a large proportion of the mineral property is owned by proprietors who have no interest in the land in which the minerals occur, the exercise of this right to mine is not attended with the difficulties and danger presumed to beset it in this Colony. If this system prevails in England, where the rights of property is so strictly conserved, we cannot see that the landed interest needs greater protection or privileges here, or that the exercise of the right to mine on private land need be attended with greater difficulties here than it is in England. It has been pointed out that the Crown has not of late years exercised its rights to the precious metals in England. This, however, is no evidence of its having abandoned the right to the precious metals, seeing that since it was last exercised no gold deposits have been discovered, or are likely to be discovered there of sufficient extent to pay for the cost of collecting the royalties likely to be charged by the Crown. In fact, the action of the Crown when gold was discovered here would point to an opposite couclusion. As a matter of legal or equitable right, we thing the owner of private land has no just claim to work the gold it may contain for his own benefit, or prevent the Crown from mining for it, and that the only question to be decided is the policy in respect to the gold on private lands it would be most beneficial to the general interest of the Colony to follow. For in this case the rights of the Crown have been ceded to the Colony, to be used for the general benefit, and not for the benefit of a class.

Majority of Commission—Messrs. Baker, Thompson, and Frappell recommend the compelling of owners of private land to permit mining thereon.

158. Your Commissioners are unanimously of opinion that this important question has remained in its present uncertain state for too long a period, and that even the sale of the gold would be preferable to the present system.

Commission unanimous in thinking that the existing uncertainty should be put an end to.

159. The Crown Lands now sold by auction are supposed to be sold subject to the rights of the Crown, as regards the gold it may contain, and this is considered a sufficient reply to any complaints as to the alienation of auriferous lands; while frequently the purchaser arranges with the miner for the working of the gold in the land at rates far beyond those charged by the Crown, and which return him an enormous profit on the cost of the land he has purchased. If the land were sold as auriferous, some approach to its real value might be obtained: at present it realises no more than ordinary land. The majority of your Commissioners can see no difficulty in providing for the working of gold on private land without injury to the just rights of the landholder, which we think should be carefully guarded. Although Sir William Manning is of opinion that mining might be carried out on private land without compensation being paid to the owner,—as the right to the minerals confers the right to work them,—we do not think in any case such mining should be permitted without full and ample compensation for any damage caused to the land being first paid to the owner.

Compensation to private proprietor.

160. Where the owner prefers to make arrangements with the miner for the working of the gold on private land we think he should be permitted to do so, subject to the agreement entered into for this purpose,—having the approval of the Mining Department,—to prevent such conditions being imposed as were contrary to public policy and impede the proper and efficient working the gold deposit; but where a proprietor refused to enter into any reasonable arrangement for working the gold in his land, the State should provide some means of preventing the public property from being locked up for an indefinite period. For this purpose, we think a similar plan to that recommended for adoption in the case of land selected under the 14th clause of the Lands Act should be applied to all alienated lands. Mining on private lands should not be prosecuted except under

Proprietors to be allowed to make reasonable arrangements with the miners, but not to be permitted to prevent mining on their land