

(No. 110.)



1876.

T A S M A N I A.

H O U S E O F A S S E M B L Y.

T H E M I N E R A L L A N D S B I L L.

R E P O R T O F S E L E C T C O M M I T T E E.

Brought up by Mr. Attorney-General, and ordered by the House to be printed,
November 7, 1876.



REPORT of Select Committee appointed to consider "The Mineral Lands Bill."

YOUR Committee have the honor to report that they have carefully considered the Bill referred to them; and, after obtaining valuable evidence upon the matter, your Committee cannot recommend that the present Bill should pass into law without more extended enquiry,—enquiry which must occupy so much time that any legislation upon the matter would be impossible during the present Session; and, viewing the importance of the interests involved, your Committee are of opinion that this Session should not pass without some amendment of the present law receiving the sanction of Parliament; and they have therefore the honor to recommend the adoption of the Bill attached hereto, which in their opinion will, as a temporary measure, meet the more pressing necessities of the case.

C. HAMILTON BROMBY, *Chairman.*

Committee Room, 7 November, 1876.

MINERAL LANDS BILL.

In continuation of Paper No. 110.

Laid upon the Table by the Attorney-General, and ordered to be printed, November 10, 1876.

MINUTES OF MEETINGS.

No. 1.

The Committee met on Wednesday, 25th October, 1876.

Present—Mr. Giblin, Mr. Dooley, Mr. Bromby.

Mr. Bromby was moved to the Chair.

Resolved—That Messrs. Shaw and E. L. Crowther be summoned to attend the Committee on Friday next, at 11 o'clock.

The Committee adjourned until Friday, at 11 o'clock.

No. 2.

The Committee met on Friday, 27th October, 1876.

Present—Mr. Bromby, Mr. Lewis, Mr. Dooley, Mr. Moore, Mr. O'Reilly.

Dr. E. L. Crowther was in attendance, and was examined.

Mr. Shaw to be summoned for Tuesday.

The Committee adjourned until Tuesday, at 11 o'clock.

No. 3.

The Committee met on Tuesday, 31st October, at 11 o'clock.

Present—Mr. Bromby, Mr. Dooley, Mr. Giblin, Mr. Moore.

Mr. Shaw was in attendance, and was examined.

The Committee adjourned until Friday, at 11 o'clock.

No. 4.

The Committee met on Friday, 3rd November, 1876.

Present—Mr. Bromby.

There being no quorum, the meeting lapsed.

No. 5.

The Committee met on Tuesday, 7th November, 1876.

Present—Mr. Bromby, Mr. Dooley, Mr. O'Reilly.

The Chairman submitted a Draft Bill, which it was resolved should be recommended for adoption as a temporary measure, to be passed this Session.

Draft Report read and adopted.

The Committee adjourned.

EVIDENCE.

FRIDAY, OCTOBER 27, 1876.

E. L. CROWTHER, *M.D.*, examined.

By the Chairman.—1. Do you think that the mineral rights would interfere with the applications for leases of mineral lands? I do, unless a very careful system of registration and immediate surveying were adopted.

2. Can you suggest any remedy? None, except the registration as named and confining the mineral rights to the locality applied for and pegged out.

3. Do you think that it would be possible in granting a mineral right to protect the interests of those who have already applied for a mineral lease? I do; for I would make the applications for leases more specific; they also should be carefully registered.

4. You think that there ought to be a registrar on the spot to register claims as applied for? I do.

5. It has been proposed that certain districts of the country should be allotted as mineral lands: do you approve of this? I would have the power to go everywhere. Districts ought not to be proclaimed for mining purposes; but holders of mineral rights should be allowed to search everywhere, including lands used for pastoral purposes.

6. As to prospecting licences: it is proposed to give, on payment of a fee of £1, a licence to search for minerals for six months. What is your opinion of this? The prospecting licence is unnecessary if you have the mineral rights.

7. You think that the power of the Minister under this Act should be limited? Yes; the power to issue mineral rights and leases should rest with the Governor in Council.

8. Do you think that the Minister should not be allowed to grant mineral rights? That is, comparatively, a small power. I think that the Minister should not have power to transfer or assign without consent of the Governor in Council.

By Mr. Moore.—9. Would you confine prospecting licences to a definite area? I would limit them to a maximum area not to exceed 10 acres; but I do not see the use of a prospecting licence.

10. Would you issue mineral rights to minors? I would limit the age to (say) 16.

11. Would you issue leases to persons under age and to females? I certainly see no reason why this should not be done.

12. Would you issue more than one licence or lease to the same person? One person should be allowed to hold more than one lease, provided the leases are for lands in different portions of the country.

By the Chairman.—13. Would you leave that in the discretion of the Governor in Council? Yes.

By Mr. Dooley.—14. Do you think that if the area of the mineral rights were limited to (say) one acre it would have the effect of occupying the country to too great an extent? I think such a limit would meet the object.

15. What would be the area that you think it would be advisable to allow a miner to occupy in virtue of his mineral right? Five acres in tin; in others, according to the present defined scale.

16. You say that applications should be more specific. What do you mean by that? I would make the applicant put in at least one corner peg, marking and defining what corner that was, with some means of ticketing and notifying the same.

17. Would you have applicants for leases to be the holders of mineral rights? Yes.

18. After such applicant has secured the lease, would the lease supersede the right? Yes; certainly.

19. You said that the Minister should not have power to transfer without consent of the Governor in Council. Should the Minister have the power to refuse a lease? No; alone he should not have that power.

By the Chairman.—20. Are you of opinion that all those engaged in mining operations should be obliged to hold a licence? I do not think it would be wise to make all miners take out a licence.

By Mr. Lewis.—21. You said that, instead of having prospecting licences, they should have miners' rights? Yes.

22. In the event of a prospector of this description making a rich discovery, should he have a grant? Yes; provided the discovery is made in some district set apart by the Governor as open for mineral discovery. He should have (say) an 80-acre section for 21 years for tin, or 320 acres in case of coal.

23. Should the Governor, then, have the power to declare certain lands open for mineral discovery? Yes.

By Mr. Dooley.—24. What would you think of deriving a revenue from mining profits? I am against every form of special taxation, unless it be an export tax on tin.

By the Chairman.—25. I understand you to say that you are in favour of an export tax on tin, if any? Yes, if necessary; but am opposed to any tax on mining industry.

26. Under the circumstances of this proposed royalty under the 18th Section of the Bill being applied to other minerals—iron, coal, &c.—as well as tin, do you think it desirable to impose a royalty? I do not.

27. With reference to the 17th Section, do you think it desirable that a maximum price should be fixed? I should name the prices in the clause as the definite prices for such lands.

28. Would you leave any power to the Commission to decide as to amount of rental? No; it had better be fixed at a maximum.

29. As respects Clause 20, which refers to registration of companies, what is your opinion? I think it necessary that all mineral companies should be registered in this Colony.

30. Would you in any case grant the freehold? No; not in any case; as to a term of 21 years, that is long enough.

31. What is your opinion with respect to water rights? I think it better to hand that matter over to mining boards. The amalgamation of leases before the lease is granted is a good idea.

32. How would you suggest that the difficulty arising from the fact of gold being found with tin should be remedied? In many cases to force the miner to take out a gold-mining licence would be a hardship. That should be left to the Governor in Council, upon the representation of the Commissioner as to whether the amount of gold obtained were sufficient to warrant compulsory licence. I think it would be better not to force amalgamated companies to employ three men to every 80 acres.

33. What is your opinion on mining boards? A board should consist of (say) five members; two to be elected by miners, two to be appointed by Executive, and the third to be the Commissioner. The miners entitled to vote in election of board should be holders of mineral rights or leaseholders.

TUESDAY, OCTOBER 31, 1876.

BERNARD SHAW, *Esq.*, examined.

By Chairman.—34. Your name is Bernard Shaw? It is.

35. How long were you acting as Gold Commissioner? For not quite four years.

36. It is proposed under one of the Clauses of the new Act to allow a number of prospecting licences to be issued for periods of six months. Have you had any experience of prospecting licences? I have, for gold.

37. In your experience did they answer? Yes, in the two or three instances in which I issued them.

38. Do you think that the same ought to be applied to searching for other minerals? I do not think that prospecting licences ought to be issued if mineral rights are granted, except to apply to land a considerable distance from any known discovery.

39. Do you think it would act well to allow the Governor in Council to declare certain portions of the country open for discovery, and to allow the holders of prospecting licences power to search in these localities only? Certainly, and I am of opinion that the holders of prospector's licences should be allowed to search in such districts only.

40. And on that condition you think that prospecting licences might be granted at the same time as mineral rights? I do.

By Mr. Moore.—41. Would you consider that a prospector should be confined to a defined area? No, but I would limit him to a certain district if mineral rights are not granted; if mineral rights are granted I would confine him to a defined area.

42. How do you propose to deal with applications for leases by holders of prospecting licences, by priority of time or by a correct definition of the land applied for by such licensee? It depends upon what is decided shall be the nature of the licence; if for a defined area, no other person would be permitted to interfere with his right to apply for a lease; if no area is defined, priority of application provided the existing rights of any other person are not prejudiced.

By Mr. Giblin.—43. A holder of a prospecting licence should be obliged, upon making a discovery, to report it and take out a lease or a claim under a mineral right, and he should have a preferential claim to such lease? Yes.

44. You would not say that the prospecting licence should be unrenovable? No, for a man might not during that time make a discovery; but I think regulations should be made by the Governor in Council under which the prospecting licences should or should not be renewable.

By Mr. Moore.—45. Would you grant more than one licence to one and the same person? I cannot see the use of a second.

Mr. Giblin.—46. Do you consider a prospecting licence should be a personal right granted to a certain individual? Not exclusively so; a capitalist employing labour to search for minerals should also be protected by the issue of a prospecting licence to himself.

47. As to the duration of the prospecting licence, what period would you prefer? I should prefer twelve months.

Mr. Moore.—48. Would you issue a prospecting licence to minors or females? I certainly think it desirable to give minors all the privileges under the Act.

49. Do you think that the discoverers of any mineral deposit in any of the lands to be set apart by the Governor in Council should have a grant of 80 acres? Yes; but in deciding the distance at which such discoveries should be made, from the discoveries already made, large discretion should be left to the Governor in Council.

By Chairman.—50. As to mineral rights, do you think that the time mentioned in the Bill sufficient? No, I think the time ought to be extended to twelve months from the time at which the right is granted.

51. Would you limit the holder of a right to any definite area? Yes, certainly.

52. What area would you suggest? I would fix a maximum area of (say) five acres, the exact extent to be prescribed by regulation.

53. Would you limit the lands to be occupied by the holders of mineral rights to any class of lands? I would allow them to go everywhere, including pastoral lands.

54. Have you any further suggestions to make under Clause 12? I would suggest that every person working at the mines should be compelled to hold a mineral right, except females and minors.

55. Do you not think that would keep labour away from the mines? No; they should be allowed to reside a certain time before being obliged to take out a licence. 24 Vict. No. 6, Clause 12, might be applied. I would strongly urge that the 12th Clause should be retained in the Bill.

Mr. Giblin.—56. Is it contemplated that the mineral rights should be renewable from year to year? Yes, certainly; as a matter of right.

57. How would the Lands Department be enabled to collect the fees if they were falling due at different times of the year? It would be more convenient for the miners to have an officer on the spot; but the plan now adopted for issuing miners' rights would answer.

Mr. Moore.—58. Would you forfeit a claim made under a miner's right if it were not worked in a *bonâ fide* manner? Yes, certainly.

By Chairman.—59. You said if the holder of a mineral right does not work his claim, it might be occupied by some one else. How would you decide questions arising from this? The Commissioner to be appointed should in such cases; no other plan could be devised.

60. You would recommend a system of registration of claims? Yes; not compulsory but optional with the holder as under the Gold Fields Regulations.

Mr. Dooley.—61. When a claim is taken up for any mineral and is found to contain gold, would you compel the lessee to take a lease under the Gold Fields Act? I would recommend that he should be compelled to take out a lease for the gold if the quantity were sufficient. Such cases should be dealt with upon the representation of the Commissioner under regulations.

62. How do you propose to deal with water rights? I think it would be impossible to make regulations concerning water rights which could be applied to all localities. I do not think you could deal with the matter in a better way than by Mining Boards. I think the provisions of the 43rd Clause are satisfactory.

MEMORANDUM.

By direction of the Select Committee of the House of Assembly to which the Mineral Lands Bill now before Parliament has been referred, I have the honor to offer the following remarks:—

Prospecting Licences.—I think it desirable to authorise the issue of prospectors' licences to search for minerals or metals on any of the waste lands of the Crown which is not within a specified distance—say twenty miles—of any known deposit of mineral or metal; such licence to give the holder the exclusive right to prospect a defined area—say one mile square—and to cease to be operative when the holder shall have made a discovery and selected his claim. The holder of a mineral right (as proposed in the Bill) can prospect any waste lands; if he finds a promising locality beyond the specified distance of twenty miles, the protection of a prospector's licence should then be given to him, until he has had time to examine the country immediately around and determine the exact position of his claim. I approve of the suggestion to give a discoverer, whether under a mineral right or a prospecting licence, a lease at a peppercorn rent, if no similar metal was known to exist at the time of his discovery within a distance of twenty miles. I do not think prospecting licences will be very frequently asked for, but it will be very desirable to authorise the issue of them in the few cases which may arise. Upon considering the question since I gave evidence on the 31st ultimo, I have arrived at the conclusion that the localities to be operated upon under prospecting licences should be regulated by distance from known deposits in preference to being defined by proclamation.

Mineral Rights.—The holder of a mineral right should be permitted to take up a claim upon any waste land of the Crown, the exact area to be prescribed by regulation, but the maximum fixed by the Act at—say five acres. I would recommend the adoption of regulations similar to those in force under the Gold Fields Regulation Act, under which the holder of a miner's right takes possession of his claim by simply fixing posts and cutting trenches at each corner, and holds possession against all others, except the Crown, so long as he works the ground for minerals in a *bonâ fide* manner, and does not fail to secure another right when that he holds has expired. The registration of such claims is not compulsory but optional with the holder, such registration securing certain advantages. The holder of a miner's right is also permitted to occupy for residence a quarter of an acre of land. It has been the practice to reserve on the gold fields certain sections for residence areas; and such reserves, with power to the miners to take possession of the quantity prescribed, is greatly needed at the present moment on the mineral lands, especially where stream tin is being procured. I would particularly recommend the clause authorising the issue of mineral rights to the favourable consideration of the Committee. I believe the existence of such a right would largely encourage the settlement amongst us of a mining population. The system at present

in force of leasing in large areas, the expense necessarily incurred, and the great delay in obtaining survey and legal possession of the ground, not only discourages the working miner, but almost prohibits him from settling in the Colony. Armed with a mineral right he may take possession of a claim, and is free from the delay and inconveniences inseparable from the leasing system. He is prevented from interfering with the rights of others, and is protected from interference himself by regulations framed under the Act. There are large numbers of miners, especially on the gold-fields of Victoria, who I believe would gladly avail themselves of the privileges granted under a mineral right to work the stream tin deposits in this Colony; and as such deposits do not require the application of capital, appliances, or machinery, beyond the reach of the class I refer to, every facility should, I submit, be afforded by legislation in that direction. With reference to the necessary arrangements for the issue of mineral rights, the registration of claims, &c., it appears to me there will be no difficulty. The system adopted with respect to miners' rights and gold-mining claims would suit very well, and the same officers, where within reach, could perform the duties required under both Acts. The issue of mineral rights is a simple matter; and if found desirable for the convenience of the miners, postmasters might very well be authorised to issue the documents. It will be the business of the miner to provide himself with a right, a matter he will be most careful not to neglect.

Leases.—It appears to me that the clauses of the Bill contain all necessary provisions. Matters of detail, such as the method of dealing with the applications, ordering survey, receiving and entertaining objections, adjusting disputes, &c., can be much better provided for by regulations as under the Gold-field Regulation Act. The goldfield regulations relating to this matter at present in force are an adaptation of the principle applied in the other Colonies, and have been found to work satisfactorily; and precisely similar regulations could be made to apply to minerals. With reference to the question of the amount of rent, I do not think it advisable to fix an arbitrary amount as applicable to all waste lands wherever situated. If land in the immediate vicinity of a shipping-place, or otherwise easy of access, is found to be rich in minerals, I see no reason why the Government should not participate in the advantage of the possession of such a property in the shape of rent proportionate to its actual value. As to the collection of a Royalty as proposed, the principle is, I believe, an excellent one; but I see some difficulty in the practical application of a means. Such difficulty could, however, be more easily be overcome if the penalty of forfeiture be introduced in the event of dishonest evasion of the payment. I would recommend some modification of Clause 35 relating to gold associated or combined with other minerals. In almost every instance some small quantity of gold is so found, and it would be unjust to compel the lessee to take out another lease. On the other hand, gold in considerable quantity may at any time be found within the area of a lease, and for which the lessee should be required to pay a rent, and the difficulty is to say where to draw the line. I would suggest, as the best practical method of dealing with this difficulty, that where it appears to the Minister, upon the representation of the Commissioner or any other person, that gold is being taken from, or has been found to exist in the area of any lease in such quantity as would render the mining of it alone remunerative, then the Minister, having ascertained such to be the case, or upon the application of any other person for a gold-mining lease of the land, should require the lessee to take out a gold-mining lease; and in the event of his refusing to do so, may grant such lease to another.

Formation of Mining Boards.—I think the appointment of Boards to make regulations for the purposes specified in Clause 43 is desirable, because such regulations must be suitable to the peculiar circumstances of the place with which they have to deal, and cannot be general for all parts of the Colony. It is neither desirable nor practicable to introduce the principle of elected Boards in the present unsettled state of the mining population.

BERNARD SHAW.

Hobart Town, 3rd November, 1876.