

to give effect to what we thought was meant by their framers; but one and all these efforts had to be given up." When to these objections we add that the expense of maintaining these Bodies would in all probability increase the burdens of the State by the amount of several thousand pounds a year, we think we may conclude that sufficient objections have been stated to show that the disadvantages of the scheme preponderate over the advantages.

Last alternative:
the Department
or a Central
Board.

Difference of
opinion amongst
members of
Commission.

31. It remains for us to consider whether the Parliament should delegate the power of framing Regulations to the Department of Mines, assuming such a Department to be created, or whether such authority should be given to a central elective Mining Board. And here your Commissioners arrive at a point in which unfortunately they have been unable to attain a unanimity of opinion, or unanimously to concur in the recommendation to be submitted to your Excellency. The portion of the Report therefore which now immediately follows embodies the views entertained by the majority of the Commission.

Opinion of
majority—
Messrs. Combes,
Baker, and
Frappell.

32. We desire to express our opinion that the most suitable persons to frame Regulations are the miners themselves. We think that in matters requiring for their settlement a purely technical knowledge, persons are required as legislators who have been educated in those technicalities. We cannot, as we have before stated, recommend that there should be, as in Victoria, a number of Local Bodies legislating on mining subjects, but we think that the principle of local self-government might, to a certain extent, be adopted by Parliament authorizing the gold-miners to elect representatives to sit as a central Mining Board to frame one code of Regulations for the whole Colony. There is, however, a large portion of the evidence given before us which declares that the officers who would constitute an efficient Mining Department would be most suitable persons to frame Regulations. We are of opinion that the scientific and official knowledge of such officers would be valuable to assist the practical miners in framing Regulations; and we would recommend that the Mining Board should not be wholly elective, but that the Government should nominate a certain number of its members. Whilst on the one hand we cannot think that the Government officers, however able, could frame good mining By-laws without the salutary check of public opinion, we believe that the elected members of a Mining Board would be materially assisted by the official and scientific element being introduced amongst them. Perhaps it would be well to constitute the Board of four elective members and three nominees, the former to be paid for their services, so that good men might be induced to give their time to the duties devolving on them. The Board to be constituted for (say) two years, to sit in Sydney at such times as may be deemed advisable by the Governor, and the Regulations made by it not to be in force until a short time had elapsed after they were gazetted. We have given the most mature consideration to this question of the nature of the authority which shall frame the By-laws under any new mining Statute, for it is in our opinion the most vital part of the whole question of Gold Fields management.

Opinion of the
dissentient
minority—the
President and
Mr. Thompson.

[We have the misfortune to differ from the majority of the members of the Commission; but with every desire to bring about unanimity of recommendation, we cannot assent either to the views entertained by our colleagues or to the justness of their reasoning in some particulars. We think that if such a Department as we have recommended be constituted, the duty of framing Regulations may with perfect safety, and would more conveniently, be entrusted to that Department. That a thorough knowledge of the requirements of the interest to be legislated for is required we have before said, and unless this knowledge can be obtained and acted upon by the Department, the Department will not be of that efficiency which we expect it to possess. We do not recognize the justice of the argument which maintains that the miners are the most suitable persons to legislate for themselves. This position contains to our minds two fallacies: in the first place, the miners would not be called upon to legislate for themselves alone; for, as we have laid down in an earlier part of the Report, mining legislation must affect the whole community, and not merely a particular class. In the second place, we see no more reason for saying that miners should legislate for the mining interests than that merchants should legislate for the mercantile interest, squatters for the pastoral interest, or farmers for the agricultural interest. Or if it be said that the technical knowledge required lends a different complexion to the matter, we answer that if the argument be sound, then clergymen should legislate for ecclesiastical affairs, doctors for the medical profession, and lawyers for the legal profession. We imagine that, in the last two cases, patients and clients might not unreasonably object. We do not think indeed that persons should be either judges or legislators in their own cause. The doubts expressed by many very intelligent witnesses, that the best men would not be elected, cannot be entirely ignored. The possibility of self-interest and of indirect influences being brought to bear upon a body such as is proposed would, in our opinion, not tend to general satisfaction in the Regulations framed by it; while we entertain grave doubts as to the harmonious working of the two elements, the nominee and the elective,—properties in this Colony almost of prescriptive hostility. But on the score of expense alone we think that, on the assumption that we have a really efficient Mining Department, the wiser course would be to vest the power of framing Regulations in such a Department. There can be very little question that the attendance of really competent, practical, and experienced men at such a Board in Sydney could not be obtained without giving them some considerable remuneration; and unless such a Board were composed of really competent men, its institution would be not merely useless but positively injurious.

We think, moreover, that in a body such as this there would at the best be an absence of that direct responsibility which under a well-organised and an efficiently constituted official Department would exist. At the same time, we feel assured that unless the Mining Department be well organized and under the direction of some thoroughly competent permanent head, there can be no hope of satisfactory Regulations emanating from such a source. And in recommending the giving of this power to the Department, we only do so in the confident hope that it will take every means to ascertain authoritatively the real state of circumstances upon and requirements of the Gold Fields,—and not, as has unfortunately been two frequently done hitherto, adventure upon haphazard legislation, upon the untrustworthy representations of parties having either selfish interests to serve or a merely superficial acquaintance with the subject.—J.G.L.I.; H.A.T.]

ADMINISTRATION OF JUSTICE.

33. That their adjudications shall be entitled to general respect and confidence is obviously the paramount consideration in the establishment of Courts of Judicature. The appointment then of competent judicial officers is absolutely essential. And of hardly less practical importance is it, in the framing of a scheme for the satisfactory administration of justice, to adhere to the principles of *expedition, cheapness, simplicity of procedure, and effectiveness of decision*. The well-being of the whole community, and not merely the particular interests of one section of that community, is directly

Principles to be
observed in
appointing
Courts of Judi-
cature.