

136. The owner of any race, dam, or reservoir should have the right to sue for any sum of money due or owing him for any water sold, in the Warden's Court. Right to sue.

DRAINAGE OF CLAIMS.

137. The level below which the water in the rock or drifts does not fall is usually called the waterline of the country, and the height of this water-line depends on the physical character of the country, such as the presence of deep valleys, or the compactness of the rocks and the presence or absence of fissures in them. Where the country is traversed by quartz veins, these veins usually form the drainage channels of the country. It is no unusual thing to find the rock within a few feet of the vein holding water that will only give a slight drip, while the vein itself, when struck, may contain a body of water requiring engine power to keep it down. Drainage.

138. In considering the question of drainage, this fact must be kept in mind,—that the water line of the country is usually the level at which the water will stand in quartz veins, and the depth of this water line varies in each locality. When, therefore, a number of claims are working on a line of reef, the deepest shaft below the water-line will (with the exception hereafter to be pointed out) drain the water from all the other claims. Where the water is in such quantity to require steam or other power to lift it, thereby incurring a large outlay, it is evident that to throw the whole of this burden of draining a long line of reef or alluvial leads, upon the single claimholder who has the deepest workings, where all parties working on the same reef or lead are reaping equal benefit, is a manifest injustice, and will greatly tend to prevent the introduction of pumping machinery without which the ground cannot be worked to any great depth. Necessity for Drainage Law.

139. Under these circumstances, your Commissioners are of opinion that a Drainage Law providing for cases of this description should be introduced. The difficulty hitherto in legislation on this subject in Victoria, has arisen from the widely different character of the drainage areas; for instance, on one line of reef a single pump may drain from half a mile to a mile of the reef, while in other cases it may not drain the adjoining claim. When this occurs, it arises from some break or cross course which interrupts the continuity of the vein, and thus interposes a barrier of impermeable material which acts like a dam in keeping the water back. Matter of local peculiarity.

140. We think, therefore, that the condition under which the drainage of each locality should be carried on, must be settled by some Body likely to be acquainted with the character of the ground requiring to be drained. We are therefore of opinion the best Court to lay down Regulations for Drainage, the area, and the rates to be paid by each claimholder, would be the Warden's Court, assisted by Assessors, who shall have power to hear and determine all matters connected with drainage. Warden, assisted by Assessors, to frame Drainage Regulations.

DELAY IN PROCLAIMING GOLDFIELDS. FREE SELECTION UPON AURIFEROUS LANDS.

141. Great complaints have been made to your Commissioners, during various stages of their investigation, upon the subject of the delay which takes place in proclaiming Gold Fields even after they have been established beyond question as being payably auriferous. The evidence we have received upon this point clearly makes out that not unfrequently prospectors have been watched by knowing and designing persons who intended to profit by the discoveries of others, and to invoke the assistance of the free selection clauses of the Lands Act in furtherance of their purpose. When, then, the prospectors had succeeded in finding payable gold in a new Field, these watchers have at once free selected the land, and have been enabled, in consequence of the delay in the Lands Office in acting upon the prospector's report, to become possessed of a private Gold Field. That these selections have not been for *bona fide* agricultural purposes is only too manifest; indeed, in some instances the selectors have not hesitated to avouch that the gold and not agriculture was their object; so that where the land has really been rich, these easily constituted private proprietors of Gold Fields have reaped a fine harvest, not of wheat or any other grain, but of money paid for licenses to mine on their land; while on the other hand, where the gold yield has soon run out, the deposit has been forfeited and the selection abandoned without even the faintest pretence at agriculture. This flagrant abuse of the right of free selection appears to us to call for immediate remedial legislation. The whole question of mining on private lands will call for the early consideration of the Legislature, and we do not in this part of the Report enter at length into the matter; but while upon the free selection clauses of the Land Act, we may be allowed to point out that, in our opinion, where, under the 14th section, land is selected on a proclaimed Gold Field, the power to enter on the discovery of payable gold should be reserved to the miners, without the cumbrous and dilatory plan of having to apply to the Minister to annul the selection. We think that a miner wishing to work or to test any portion of a free selection under the 14th section should be at liberty to apply to the Warden for that purpose, and that the Warden should thereupon be empowered to authorize such working or testing, the Warden settling the conditions under which it should be carried on, and, with or without Assessors, fixing the amount of compensation to be paid to the selector before the work of testing is begun. Thus, we think that, without for the present expressing any opinion as to the question of land *not* a proclaimed Gold Field, the rights of selectors on the one hand, and of miners on the other, would be fairly respected. Great dissatisfaction with present delay in proclaiming Gold Fields; and consequent abuse of right of free selection.

142. To revert to the question of delay in proclaiming discovered auriferous land as a Gold Field. It has been proposed by several witnesses that the whole Colony should be at once proclaimed as a Gold Field; but your Commissioners, in view of the importance of the great interests of the Colony Proposal for immediate proclamation of