

Victoria's other Eureka: Conflict over Mining Leases on the Mount Alexander Goldfield

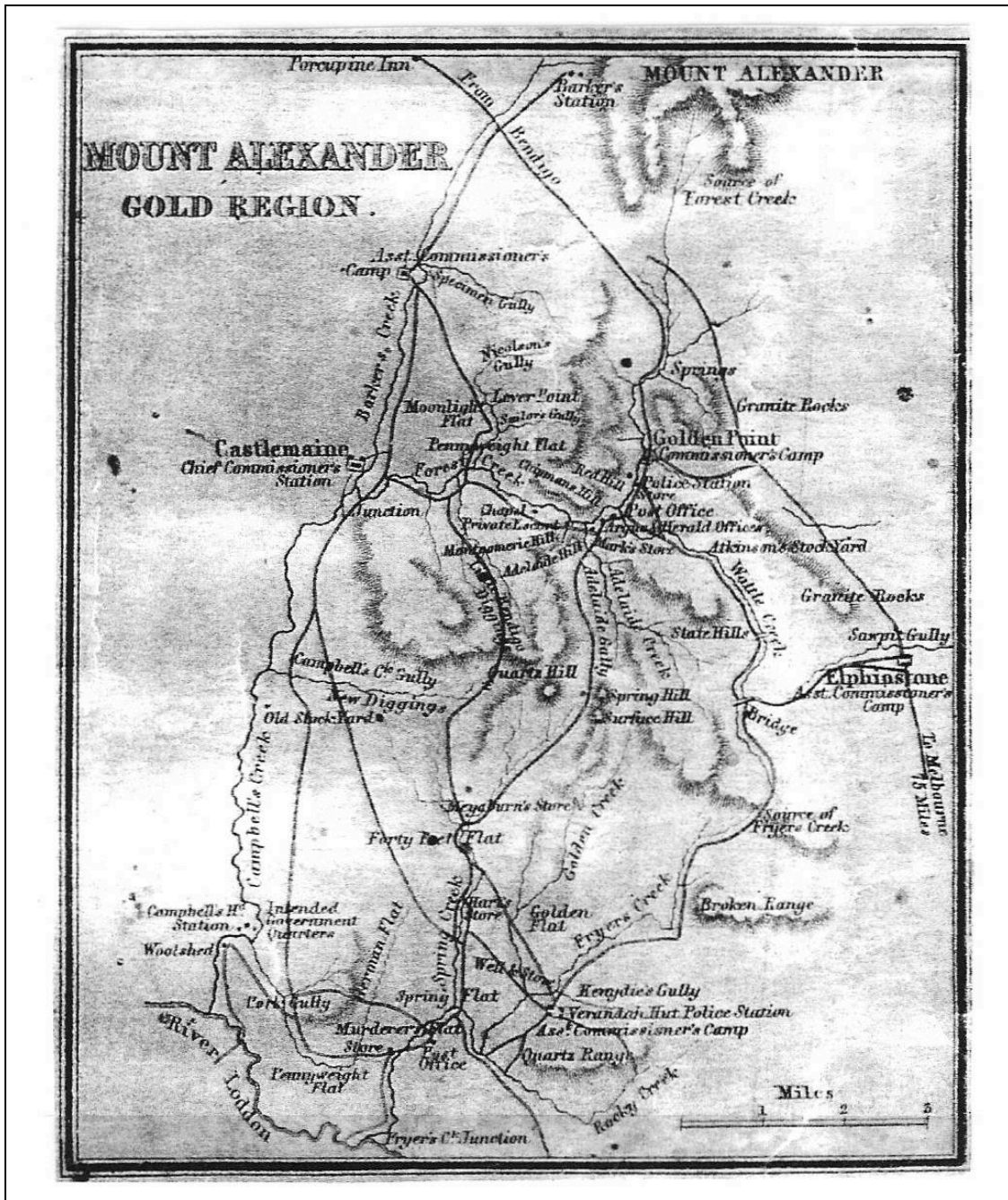
By JIM ENEVER

Much has been written about the issues contributing to the unrest on the Victorian goldfields during the early 1850's that ultimately led to the Eureka rebellion at Ballarat in December 1854. Whilst emphasis is generally placed on the license system and its arbitrary enforcement as the primary source of discontent, most analyses list the resentment of independent diggers toward the Government's moves to offer leases to mining companies as one of the factors leading to the unrest.¹ The affront felt by the diggers toward the license system was widespread throughout the goldfields, although the relative impact on sentiment did vary from location to location and from time to time, depending largely on the degree of success being experienced by the diggers at that moment. The Mount Alexander Goldfield, based on Castlemaine, had its share of agitation revolving around the license system, particularly in late 1851 when the Government proposed an increase in the licence fee.² From 1852 on, Mount Alexander was not the site of most action on this front, often being singled out for its relative calm.³ During 1853 and 1854, strong resentment did, however, emerge in the area toward the prospect of mining companies being given leases over large areas that could displace the diggers from their small claims.

The resistance to leases and company based activities remained relatively low key during the first months of 1853, but in October of that year a crisis point occurred when the Government decided to grant a lease to the Port Phillip and Colonial Gold Mining Company at Windlass Hill near modern day Fryerstown. The local diggers were galvanized into action. A number of meetings were organised and a petition collected to be forwarded to the Governor. In the face of a potential digger revolt, Governor LaTrobe reversed the decision to grant the lease and the situation was defused. The issue of leases was subsequently put on hold, re-emerging in the latter part of 1854. In the meantime, the situation on the goldfields generally deteriorated, fueled primarily by the growing resentment toward the license system. The leasing issue became caught up in this rising hostility. After the events of 3rd December 1854 at

Eureka, the subsequent review of the 'Condition of the Goldfields' (commonly referred to as the Eureka Royal Commission) included in its deliberations the issue of leases and associated grievances, coming up with recommendations that eventually led to the introduction of an acceptable system for leasing.

Figure 1: Early sites of discovery on the Mount Alexander Goldfield.



Source: *General Map of Australia and Tasmania (or Van Dieman's Land) Showing the British Colonies as Divided into Counties, 1857*, State Library of Victoria map Collection.

Perspectives on Mining Leases: 1851 to 1853

During the early years of the 1850's, a number of clearly conflicting perspectives on the role of mining leases emerged on the Victorian goldfields. In the eyes of the diggers who had come to cherish the independence offered by the system of small claims instituted by the authorities soon after the initial discoveries of 1851, leases indicated the arrival of capital companies with mechanised mining practices and paid labour. The diggers saw in this the prospect of a return to the class divisions that had ruled their lives in their home lands. This underlying sentiment surfaced clearly in the evidence given to the various enquiries set up by the Government to investigate management of the goldfields. A typical example of the digger's view regarding leases can be found in the evidence given by B.E. Thomson to an 1853 enquiry held by the Legislative Council. In response to a question regarding the prospects for selling or leasing auriferous land, he replied:

The chief advantage of the gold fields now is that every man of small capital can engage in it if he chooses, but if you sell or lease the lands ... the land will be absorbed by large companies. The companies, from their superior capital, would ... be able to buy up the rich tracts of land leaving only the poorer portions for the public.⁴

The emotional issues around the juxtaposition of leases and the emergence of capitalists on the goldfields was grist for the mill of the press of the time, particularly during the latter half of 1853 once regulations for leasing were promulgated but even earlier than this some of the more radical periodicals were highlighting the issue. One of the more colourful examples can be found in the wonderfully titled *Australian Gold Diggers Monthly Magazine and Colonial Family Visitor*, where reported in November 1852 that:

While fully admitting the evils of the scramble [with respect to the licensed small claim system], we think that many who wish for the supremacy of mining companies are influenced a little by the old exclusive spirit, that would once more, if possible, reduce our working population to the condition of parish bound slaves. In the *good old times* a labouring man was not permitted by law to eat animal food but once a day, (very rarely did he taste it once a month) while his wife and daughter were not allowed to wear a kerchief that should cost more than a shilling ... Now many sigh for a return of the olden times, and they are grieved to the heart to see the man of moleskin able to get the precious gold dust by the payment of a fee.⁵

That there was deep-seated resentment of capitalists on the gold fields and reluctance to countenance leases that might expedite their arrival there is no doubt. The situation, however, was not as simple as this. During the various enquiries conducted by the Government into management of the goldfields, the opinion was repeatedly expressed that leases might be acceptable to the diggers if only land already ‘worked out’ by them was involved (although there did not appear to be any universal idea of what ‘worked out’ might mean in this context). Also advocated was that co-operative companies formed from groups of diggers might be more acceptable than companies based on ‘outside’ capital, and that a system based on the leasing (or sale) of small parcels of land that would be open to the diggers to compete for at a reasonable cost, might be acceptable. Above all, the diggers were concerned that large areas of ground should not be alienated from them before they had a chance to evaluate them properly.

By contrast, the capitalist mining companies, formed predominantly in the UK during 1851 and 1852, saw it as their birth right to have access to a share of the auriferous territory of a size suitable for company activities, with a degree of security that was commensurate with the financial commitment involved. The pages of the *London Mining Journal* of the time abound with accounts of mining companies being formed with the most optimistic outlook, being based on the surety that capital, technology and know-how derived from the UK could be directly applied in Victoria, compounded with the belief that it was self evident that mining companies were the only means by which the Colony’s mineral resources could be properly developed. Among these companies, the exploits of the Port Phillip and Colonial Gold Mining Co. stand out.

The extract from the prospectus of the Port Phillip Co. shown in Figure 2 says much about the mindset of the Company at inception. The Port Phillip Co. was promoted by a group that had previously promoted the English and Australian Copper Company, who’s operations in South Australia had brought them into contact with the philosophy of companies acquiring exclusive access to large tracts of land for exploitation as they saw fit.⁶ In January 1852, the Port Phillip Co. wrote to Earl Gray at the Colonial Office in London requesting that he approve a grant of land to the Company for the purposes of mineral extraction in Victoria. In reply, Earl Gray pointed out that any such grant would have to be made by the colonial authorities on the spot, according to the prevailing law.⁷ This appears to have focused the mind of the Company on the prospects for influencing the fledgling Victorian Government toward the

adoption of a system that would allow companies to acquire tracts of auriferous ground on favourable terms, as illustrated by an extract from the Company's instructions to its representative, Mr Evan Hopkins:

The object of the Company is to possess itself of mineral or auriferous ground on which to carry out its operations. The way of doing this, must be left to your determination according to the state of circumstances which you may find existing. Whether you will have to do this by treating with individuals or with the Government can only be determined on the spot.⁸

Figure 2: Extract- Prospectus of the Port Phillip and Colonial Gold Mining Co., 1852.

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**PORT PHILLIP AND COLONIAL GOLD
MINING COMPANY.**

PROVISIONALLY REGISTERED.

CAPITAL, £150,000,
IN 150,000 SHARES, OF £1 EACH.

DIRECTORS.

SIR WILLIAM FOSTER, BART.
J. J. CUMMINS, Esq.
JOHN B. ELIN, Esq.
J. O. HANSON, Jnr. Esq.
JOSEPH HARDCASTLE, Esq.
J. D. POWLES, Esq.
HENRY RANKING, Esq.
C. H. J. RICH, Esq.
H. W. SCHNEIDER, Esq.
CAPT. JAMES VETCH, R.E.

WITH POWER TO ADD TO THEIR NUMBER.

ADDRESSES.

GEORGE ENGSTROM, Esq. EDWARD HURRY, Esq.

BANKERS.

MESSRS BARCLAY, BRYAN, TRITTON & CO.

THIS COMPANY has been formed for the prosecution of Mining in the Colony of PORT PHILLIP, now called VICTORIA, or any other of the British Colonies.

The intelligence recently received from PORT PHILLIP, leaves no doubt of the existence of a large extent of Auriferous Deposit in that Colony, offering ample inducement to the prosecution of Mining enterprises.

The opinions of scientific persons have, for some time past, favoured the belief, that the geological formation of AUSTRALIA would be found the same as that of CALIFORNIA,—an opinion which seems to be now confirmed by practical experience.

It is unnecessary here to give a detail of what has been done in AUSTRALIA by the unskilled and desultory labours of individuals. Private communications amply confirm the statements which have appeared in the Public Journals. Mining, like all other pursuits, requires to be conducted with system and method—with the aid which mechanical skill and experience are capable of supplying—in order that it may obtain its just remuneration. Without these helps, the labour of individuals is often misapplied, and the produce obtained—imperfectly and wastefully realized.

This Company proposes to supply from England, the Capital, the Skill, and Machinery necessary for the successful prosecution of Mining labour in AUSTRALIA.

Mr. EVAN HOPKINS, who has had considerable experience in Gold Mining in Spanish America, will proceed to PORT PHILLIP, to establish the Company's operations there, with a suitable body of persons to carry on the same.

The Company's Capital will be £150,000, in 150,000 Shares of £1 each, to be paid on complete registration.

This Company has been formed by the promoters of the English and Australian Copper Company. That Company is, by its constitution, restricted to the reduction of Ores by Smelting, or any other process, and it is at this moment engaged in preparing the necessary machines for that purpose to transport to PORT PHILLIP. It is believed that this Company may very much promote the objects for which that Company was formed. They will work in harmonious co-operation with each other, and in order to secure to the Shareholders in the English and Australian Copper Company, the opportunity of partaking in the present undertaking, if they shall think fit to do so, the preference of subscribing to the Capital of this Company will be given to the Shareholders in the English and Australian Copper Company.

Each Shareholder in the English and Australian Copper Company will be entitled to two Shares in this Company for every Share held by him in the former Company.

Ten thousand Shares will be reserved for appropriation in Australia.

The Directors believe that this undertaking will be not only remunerative to its Shareholders, but that it will be highly advantageous to the Colony, by introducing into it a body of skilful and experienced Miners, capable of doing justice to its mineral resources.

The Company will possess the power of acquiring, holding, and disposing of lands in any of the British Colonies.

Application will be made to the Board of Trade for a Royal Charter of Incorporation.

Permission will be reserved to increase the Capital, if necessary hereafter, with the consent of the Shareholders.

The Company has secured the exclusive privilege of using in PORT PHILLIP, Longwell's Patent for the Reduction of Ores.

Applications for Shares to be addressed, on or before the 24 of February, to the Company's Office, No. 17, Gracechurch Street, or to MESSRS. LAURENCE, CARRUTHER & PEARCE, Auctioneers.

Source: State Library of Victoria, LaTrobe Manuscripts Collection, MS12057, Box 2560/1.

On arrival in Victoria in mid 1852, Hopkins was apparently granted an interview by Governor LaTrobe, at which time he appears to have been given comfort that the Government would look favourably on the adoption of a system for management of auriferous ground that would be of benefit to company based activities. The London *Mining Journal* of 23rd October 1852, reporting on the meeting, stated:

Great satisfaction was expressed ... at the arrival of an English Company, competent to conduct, in a regular and business-like manner, the operations for which there was so large a field. The Governor on his part gave to Mr Hopkins a most friendly reception, and offered him every facility in his power ... [and quoting Hopkins] "Measures are now under consideration of the Government, based on the principle of royalty, which, when carried into effect will not only be more suitable, and less troublesome to the Company, but also more simple and profitable to the Colony".⁹

Hopkins subsequently wrote to LaTrobe requesting leases on alluvial ground of a half-mile square, including at Fryers Creek.¹⁰ During the rest of 1852 and 1853, the Port Phillip Co. conducted a substantial correspondence with the authorities, and had significant influence on the progressive development of mining legislation in Victoria, toward the goal of securing a system of land tenure that would suit their preferred style of operation.

The Government's view on mining legislation during this period was largely a product of the difficulties facing administration of the infant Colony during the chaos attending the early years of the gold rushes. The Government battled to meet the competing demands of vested interests and the diggers. Complicating this was the difficulty of reaching a consensus among an often disparate group of personalities within the Government. Governor LaTrobe's role in this mix was of paramount importance during the period from 1851 to 1853.

LaTrobe progressively became pre-occupied with what he saw as a potentially uncontrollable situation when the massive influx of people from a multitude of cultural backgrounds began in 1851 and 1852. At the same time key members of Melbourne's establishment, including public servants and police, left for the gold fields.¹¹ In the face of this situation, LaTrobe saw the prospect for using mining legislation as a tool to manage things. In his despatches to Earl Gray during late 1851, LaTrobe reflected on the use of the license system as a means of restricting access of undesirables to the goldfields, ensuring that the essential functions of society were not compromised by the absence of tradesmen and others at the goldfields, and raising revenue for the provision

of services to the goldfields in an environment where the Legislative Council refused to authorise such expenditure from the limited consolidated revenue available.¹² At the same time, LaTrobe mused over the need for some better system for management of the goldfields: where it was vital for the Government 'to keep pace with the popular movement, and maintain, in appearance at least, some degree of public order and respect to the laws and regulations'.¹³ Given LaTrobe's reported sympathy to the Port Phillip Co's approaches for a grant of mineral land, it would seem fair to assume that in such a system LaTrobe saw the makings of at least one better system for management of the goldfields that allowed for more ordered exploitation of the resources and relief from the threat of mob rule. But was LaTrobe in conflict with the Legislative Council in regard to the management problem, for he believed:

The opinions expressed by members of the legislative body, with reference to the gold question, are in diverse instances little calculated to strengthen the Government, and are, to say the least, unwisely and unguardedly enunciated.¹⁴

It is not clear, therefore, whether or not a consensus view on the issue of leases and company mining ever existed within the Government, or if it was LaTrobe's personal views that effectively drove things.

The Evolution of Mining Legislation: 1851 to 1853

Birrell has comprehensively detailed the chronology of the evolution of mining legislation in Victoria and the associated background.¹⁵ What follows here is a brief summary of the major steps that occurred between the first gold discoveries in 1851, and April 1853 when the regulations regarding leasing that provoked the crisis at Windlass Hill were promulgated.

In August 1851, shortly after the first gold discoveries in Victoria, Governor LaTrobe was responsible for two proclamations that together formed the initial framework for the conduct of gold mining in Victoria. The first of these claimed ownership of all minerals in the Colony for the Crown,¹⁶ and the second set forth regulations for the issuing of licenses by the Crown to dig and search for gold on Crown lands.¹⁷ The underlying philosophy was based directly on the precedent established some time earlier in NSW, and was essentially an emergency response to precipitous events. These proclamations set in place the licensed small claim system in Victoria but

even at this time the prospect of issuing leases to mining companies to work large areas was anticipated.¹⁸

The first Victorian Act to deal directly with mining issues was promulgated in January 1852.¹⁹ Regulations under this Act set forth on 20th October 1852 dealt with the auctioning of leases for parcels of up to 10 acres [4.05hectares] of land that had ‘already been wholly or in part dug over and abandoned’.²⁰ In the event, this provision proved unworkable due to pre-emptive action by the diggers. Two months later, a select committee of the Legislative Council was set up to enquire into a number of issues effecting the goldfields, including the issue of leases for companies. The enquiry took evidence from a very limited range of people, mainly from within or associated with the administration of the goldfields. Based on this limited evidence, the committee’s report recommended that the license system be continued at that time, but that:

...facilities should be offered for the operation of Companies, both in abandoned and in newly discovered places (not in occupation), by larger claims being allowed to them, or by convenient sized blocks being let by Auction or by Tender in the usual way. The system of a Royalty with a nominal fee has been suggested, but your Committee are not prepared to recommend it, as they fear the difficulties of collection would render it impracticable.²¹

Whether as a result of the committee’s report or otherwise, in January 1853 a board under the chairmanship of the Chief Commissioner for the Gold Fields was appointed to frame a set of guidelines for the issuing of leases to companies and associations of miners.²² This board took evidence both directly and by written submission from a number of individuals, and from companies (including the Port Phillip Co.), but did not appear to canvas widely for the opinion of the diggers. The conclusions reached by the board were accepted in essence by LaTrobe and his Executive Council, and promulgated as new regulations in April 1853.

Early Mining on the Mount Alexander Goldfield: 1851 to 1853

The early mining history of the Mount Alexander Goldfield is well documented.²³ The discovery of the field is generally credited to Christopher Thomas Peters, who, with some companions, secretly worked a quartz outcrop in Specimen Gully (Fig.1) between July and September 1851. Soon after this, the discovery of rich alluvial gold at Golden Point on Forest Creek heralded the start of a period of frenzied activity during which every gully and ridge in the area was worked by a hoard of gold seekers from all over

the world, that numbered up to 30,000 at times. The shallow occurrence of fabulously rich alluvial gold and the abundance of gold impregnated quartz outcrops made Mount Alexander the ideal field for the independent digger. Almost the entire production during the early years was from small claims held under License, worked typically by individuals or parties of up to four. The claims were initially 6 feet by 6 feet [1.83m by 1.83m], and later up to 12 feet by 12 feet [3.66m by 3.66m].²⁴ The limit on claim size applied equally to alluvial work and quartz mining.

Although there was some unrest during 1851 and 1852 regarding the license system, the generally satisfactory results being obtained at this time by most of the diggers at Mount Alexander acted as a natural break on the hotheaded behaviour that typified other goldfields. It was in this environment that the Port Phillip Co. first entered the picture on this site. Accepting that for the time being they would have to work within the prevailing licensed small claim system (albeit after making suggestions to LaTrobe regarding changes to the regulations to better accommodate the needs of companies), the Port Phillip Co. began operations in October 1852.²⁵ A small force of Cornish miners brought out under contract to the Port Phillip Co. were set to work in groups of two and three on standard small claims at Forest Creek. The Company negotiated a tribute arrangement with the miners which allowed them to retain two thirds of any gold won. In addition, the Company provided the miners and their families with accommodation and food. By the standards of the time this was a very generous deal but despite the incentives the returns were poor, and the Company's cash reserves were soon running down. The Company set up a tent store at Forest Creek as a cost saving measure in the face of the escalating price of supplies. This store burnt down in December 1852. In January 1853 the Company wrote to Governor LaTrobe informing him of the intention to wind back operations unless arrangements for granting leases were implemented.²⁶ In the absence of a satisfactory response, alluvial operations at Forest Creek were closed down during the first half of 1853 and the work force of miners reduced to ten.

Mining Leases on the Mount Alexander Goldfield: 1853

There is no clear evidence that any applications for leases prior to the April 1853 regulations ever produced any action. The first well-documented case of a mining lease being applied for on the Mount Alexander Goldfield under the regulations promulgated in April 1853 is that of the McIntosh Co-operative Mining Company. On 23rd April

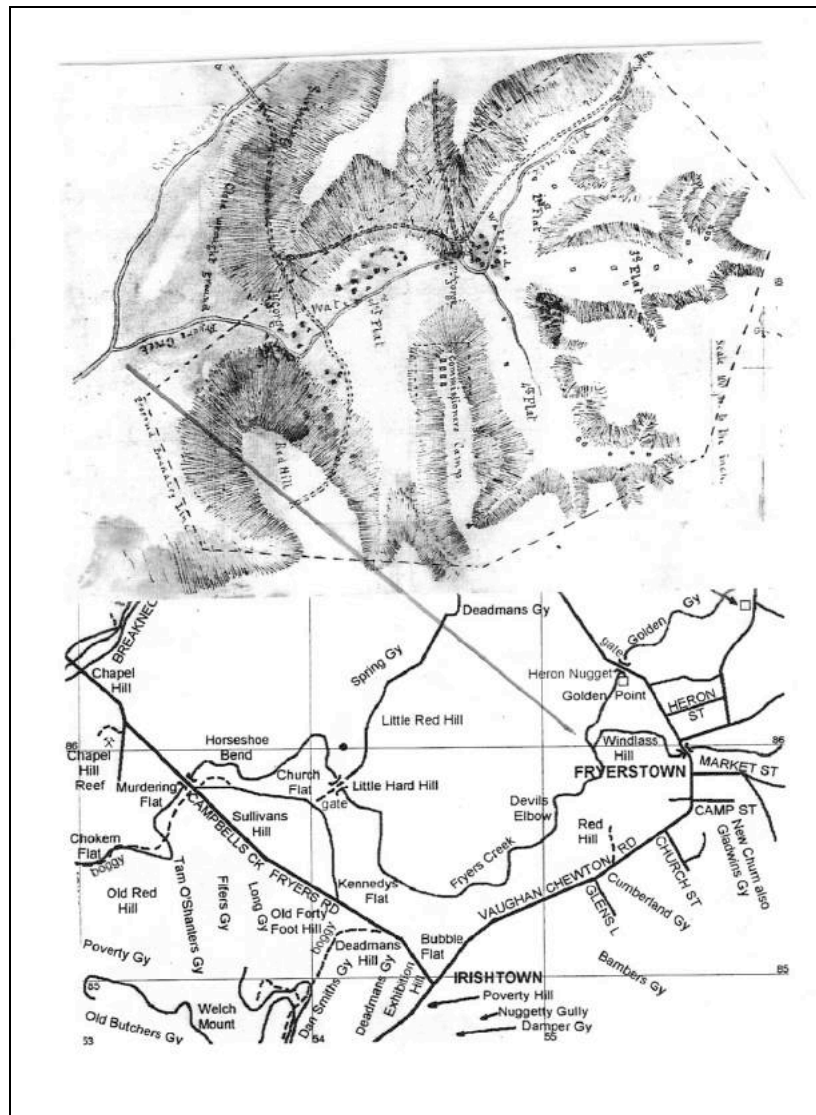
1853 the secretary of the company formally applied for a five-acre [2.02 hectares] alluvial lease on worked out land at Forest Creek, as specified in the regulations for co-operative companies.²⁷ The shareholders were all local residents. Although the application appeared to meet all required conditions, the subsequent series of events and copious correspondence reflected a high degree of uncertainty and/or reticence on behalf of the authorities to finalise arrangements, presumably in response to an undercurrent of digger opposition. This procrastination occurred despite Governor LaTrobe giving his express support to the application. In good faith, the Company began operations when assured by the local authorities that a lease would be forthcoming. This type of pre-emptive behaviour had parallels on other goldfields.²⁸ In the event, a lease was never formally issued to this company, the offer being revoked in January 1854.²⁹ Other co-operative companies applied for leases during mid 1853, to ultimately meet the same fate.

Whilst there was opposition to co-operative companies, it was the application for a lease by a major capital company that was to bring matters to a head. By mid 1853, the Port Phillip Co. was just holding on. Judging that the legislative position was now right, on 1st January 1853, the Company made application for a lease under the April 1853 regulations. The original application is shown in Figure 3, the area initially applied for in Figure 4.

In a report to the Chief Commissioner for the Goldfields dated 6th July 1853, the Resident Gold Commissioner at Castlemaine, Captain Bull, described a visit to the area in company with Assistant Commissioner Herron and Mr Thompson, a representative of the Port Phillip Co.³⁰ Captain Bull expressed concern that the area requested showed evidence of substantial occupation and on-going, but temporarily interrupted (by winter) mining activities, with up to 490 people housed in tents and huts, as well as nine stores, in addition to the Commissioner's camp. He also recorded that there was 'a strong feeling of opposition existing against giving up the land to a company'. Based on this, Captain Bull recommended that the lease not be granted. Despite various compromises being explored, the Chief Commissioner in a letter to the Colonial Secretary dated 20th July 1853 endorsed this position.³¹ At Governor LaTrobe's request, a 'careful' letter was sent to Mr Bland, resident director of the Port Phillip Co., declining to issue a lease. Bland replied on 3rd August 1853, arguing strongly for re-consideration on the grounds that the extremely wet conditions in the area would hinder future work by individuals, and that a company would be required to properly work the

area.³² Governor LaTrobe indicated his desire to continue to pursue the possibility of a lease, 'consistent with the spirit of the regulations'.³³

Figure 3: *Original Application for Mining Lease at Fryers Creek (modern Fryerstown) by Port Phillip and Colonial Gold Mining Co.*



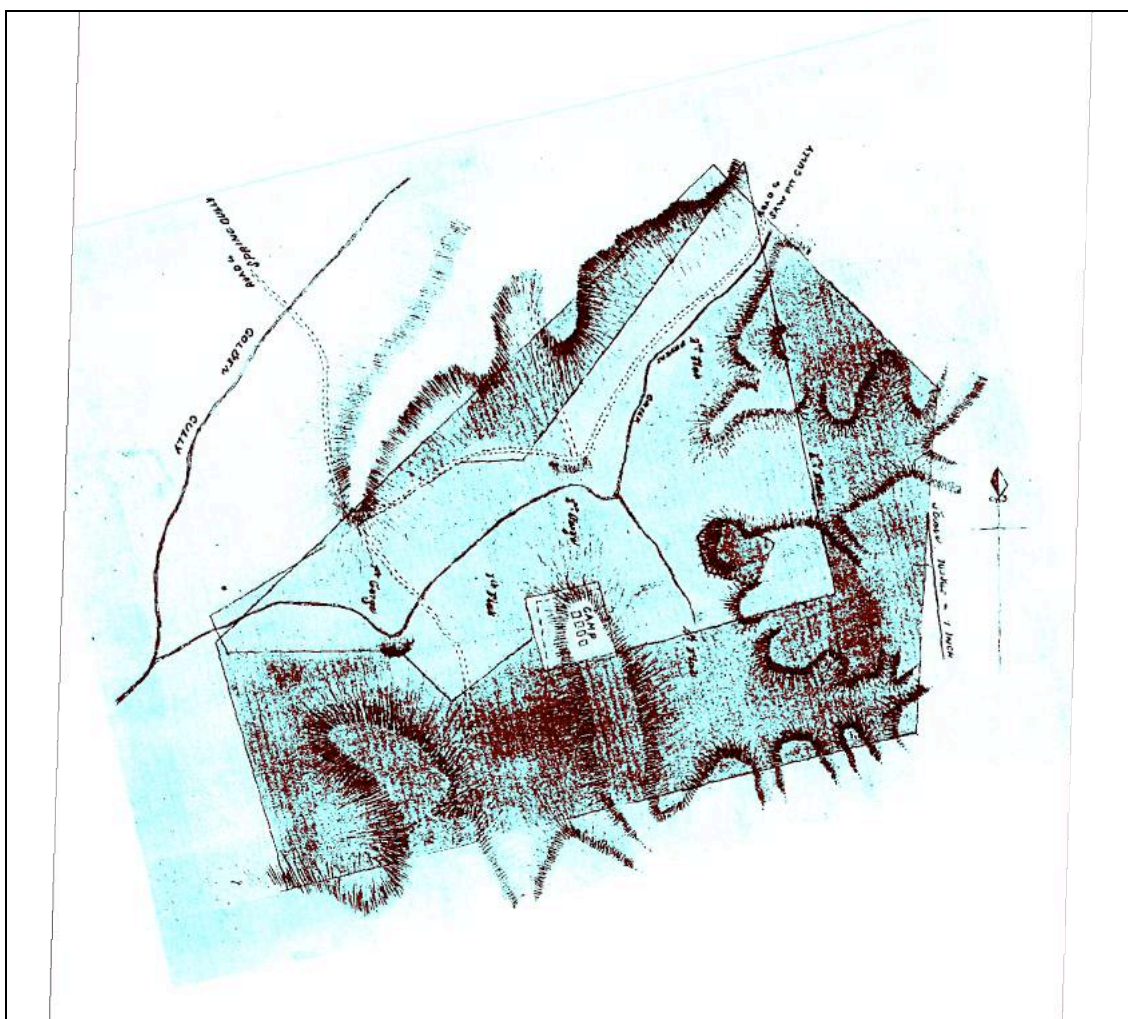
Source: Victorian Public Records Office, VPRS 1189/88. Modern base map from, *Castlemaine Maps*, Weila Publishing, Dunolly, 2004

Throughout August and September 1853, correspondence went back and forth between the authorities and the Company, centered primarily on the possibility that the Company's proposed activities might displace some or all of the diggers already occupying the area. After modification to mining plans to minimise such impact that involved adjustment to the boundaries of the area applied for (Fig.4), the Chief Commissioner finally recommended to the Colonial Secretary on 3rd October 1853 that

permission be granted for the Company to commence activities immediately.³⁴ By 13th October, agreement had been reached between the parties for operations to commence ‘above the second gorge’..³⁵

As a condition, all claims to the upper portions of the three flats were to be surrendered by the Company. The dewatering activities to be undertaken by the Company were anticipated to provide general benefit to the remaining diggers by rendering their claims workable in the wet. The Company reserved the option of securing worked out ground within the bounds of their original application as it became available. These mitigating factors, along with LaTrobe’s intervention were seen by the Company as a reasonable compromise and endorsement. The diggers, however, did not see things this way.

Figure 4: *Adjusted Boundaries of Area Applied for (lighter shaded area) to Avoid Conflict with Diggers*



Source: Victorian Public Records Office, VPRS 1189/88

Crisis: October/November 1853

Only a few days after permission was finally given to the Port Phillip Co. to start operations, the diggers at Fryers Creek were roused to action. It is unclear to what extent the diggers were caught unawares by the sequence of events that had occurred in the preceding weeks, but the nature of what now took place would suggest that such was the case, despite the fact that the press, notably the *Melbourne Herald and Port Phillip Gazette*, and the *Geelong Advertiser and Intellegencer*, had run editorials throughout August and September that highlighted goldfield management issues and the underlying tension between the diggers and mining companies. On Saturday 16th October, a meeting of diggers took place at Hassell's store at Commissioners Flat (Fryers Creek) to allow the diggers to air their grievances against the lease being granted. This meeting was described in the popular press in tones varying from matter of fact³⁶ to indignant about the lack of clarity of the authorities regarding conditions for leasing,³⁷ to hostile in support of the diggers case.³⁸ Internal correspondence within the Port Phillip Co. described the meeting as poorly attended and a 'complete failure', there being only very limited opposition among the diggers to the lease being granted to the Company.³⁹ Despite this dismissive view, the meeting led to the preparation of a petition to Governor LaTrobe (Fig. 5), signed by 879 diggers that set out their case. This was forwarded to the Chief Commissioner on 18th October, along with a covering letter from the Resident Commissioner, Captain Bull, which expressed sympathy for the digger's cause and made clear his feelings, as well as the observation of Assistant Commissioner Heron, that, '... there is a very strong intention on the part of the petitioners to prevent the occupation of the land in question by the Company'.⁴⁰ Also noted was that while other extant applications for leases by co-operative companies in the Fryers Creek area, notably the Spring Gully Gold Mining Co.⁴¹ and the Victoria Co-operative Gold Co.⁴² appeared to comply with the specific provisions of the April 1853 regulations, the ground applied for under lease had been worked out; '... in the case of the Port Phillip Mining Company, the ground applied for is *new, unworked ground*'.⁴³

The Chief Commissioner forwarded the petition to the Colonial Secretary on 24th October, along with a statement to the effect that he had no specific knowledge of the case in point on which to base a judgment. He recommended that the Resident Commissioner undertake an immediate enquiry into the nature of the opposition.⁴⁴ The enquiry was duly undertaken and the report received by the Chief Commissioner on 5th November. Verbal and written evidence was taken from 15 persons claiming to be

delegates of the diggers in the area, who had apparently been appointed at a public meeting of around 700 diggers.⁴⁵ The report, signed by Captain Bull, summarised the specific objections to the granting of the lease, as well as reporting on the general feelings of the population with regard to mining leases being granted to companies. For the first objection, the specific grounds were that:

- the area was clearly not worked out as intended to be interpreted according to the April 1853 regulations, the temporary lack of activity being attributable to the adverse impact of excessive water on the ability to work during winter, with up to 2000 people anticipated to return to work small claims during summer;
- the area was very likely to prove rich and amenable to being worked by small claims, without any obvious additional benefit being offered by company based activities, as least as far as alluvial work was concerned;
- the proposed operations of the company would jeopardise the supply of water available to the general public during summer, such supply depending largely on a number of water holes excavated in the creek by individual diggers at their expense.

The underlying feelings against the granting of leases to companies in general was well summed up in the evidence given to the enquiry:

That putting aside all other considerations, it would be a manifest act of injustice to wrest from the hand of the Diggers, ground which had been discovered by them to be auriferous ground, in the discovery of which they had incurred considerable expense.⁴⁶

In his report, Captain Bull was at pains to point out the loyal and law abiding nature of the populace at Fryers Creek, as evidenced by the continued taking up of licenses and the lack of public meetings aimed at airing grievances as was common on other gold fields. As appears to have been the standard protocol, Captain Bull's report was sent on to the Colonial Secretary on 12th November, along with a covering letter from the Chief Commissioner counseling that permission for the Company to occupy the land be withheld in the prevailing climate of public unrest. The Chief Commissioner's recommendation was put before the Executive Council on 19th November 1853:

As the land applied for does not appear to have been vacated in the manner contemplated by the published regulations, the lease applied for cannot be granted. At the same time it is to be understood that it is the desire of the Government to grant leases applied for in conformity with the regulations.⁴⁷

Figure 5: Original application for mining lease at Fryers Creek (modern Fryerstown) by Port Phillip and Colonial Gold Mining Company

Port Phillip and Colonial Gold Mining Company
Melbourne 1st June 1853.

Sir

I beg to apply on behalf of this Company for a lease of some land at Fryers Creek, Mount Alexander, in accordance with the Gold Regulations of the 5th April last.

2. The accompanying sketch will better explain the position than any written description I am able to give in the absence of any accurate Survey.

3. The land I now apply for is that portion of ground included within the red lines and contains about 42 acres, out of this the Government will of course reserve any quantity of ground required for the use of the Commissioners, whose Camp is situated upon it, as well as the right to any claims at present occupied by Diggers, which claims to revert to this Company when abandoned by their present occupants.

4. I enclose the sum of £100. as a deposit in compliance with the 27th Clause of the Regulations.

I have the honor to be,
Sir
Your most obed^t Serv^t.
(Signed) R. H. Bland -

Source: Victorian Public Records Office, VPRS 1189/88

In a formal sense, the above statement brought to an end the episode in a way that let the government off the hook and avoided any immediate, potentially more forceful, confrontation. The digger's sense of injustice regarding the question of leases for companies was, however, whetted by what had transpired. During the period that the

enquiry and its follow up were being played out, unrest was developing. A series of reports in the popular press from late October to mid November described events involving companies other than the Port Phillip Co., while at the same time editorials in these papers inflamed the unrest. The *Melbourne Herald and Port Phillip Gazette* in its edition of 31st October, elaborated on the events pertaining to the Port Phillip Co's lease, but also described a separate incident provoked by the taking up of a five-acre [2.02 hectares] lease by another company at Fryers Creek.⁴⁸ When ventilating their anger the diggers

... were again aroused by the information that five acres of the best part of Fryers Creek was leased to a company; that they had proceeded so far as to plant their marks, and in one instance to warn one party off the ground.⁴⁹

Captain Bull gave a separate and less colourful account of these events in his report to the Chief Commissioner regarding the enquiry into the Port Phillip Co. case. He described accompanying the proprietor of the Victoria Co-operative Gold Co to take up the lease only to find three parties already working the ground. There is no indication that these parties were warned off, but rather that the proprietor (a Mr Vincent) was prepared to take up an alternative area to avoid any conflict. Despite this compromise, Captain Bull saw it necessary to ask Mr Heron to protect Mr Vincent as the ground was taken up. This would seem to suggest that emotions were running high. In his report, Captain Bull suggested to the Chief Commissioner that it might be advisable to rescind the offer of the lease (despite the application initially being considered to comply with the regulations) and offer some form of compensation to the Company. Editorial comment in the *Herald* on 31st October, noted:

It, perhaps, is as well after all that the subject [of leases] has been mooted at this time, because it may be the means of bringing it prominently before the Legislative Council, and so "out of evil may come good". I look upon this subject as one of the most serious that has ever been raised since the commencement of the gold discovery.⁵⁰

A follow up article on 10th November kept *Herald* readers abreast of progress with respect to the enquiry then being held, and further pursued the editorial line of the injustices to the diggers inherent in the Government's attempts to offer leases to companies and the danger of violence if efforts in this direction were pursued. In a series of editorials during the first half of November, the *Geelong Advertiser* consistently pointed out the injustices of the Government's leasing policy as they saw it,

and referred to a 'Diggers Protection Committee' having been formed at Fryers Creek.⁵¹ After mid November, the press reports and editorials tapered off, perhaps in response to the perception that the Legislative Council, with its digger supporters, was now adopting more of a driving role with respect to management of the goldfields.

The Legislative Council Enquiry, September/November 1853

In August 1853 the Legislative Council appointed a select committee to enquire into various issues with regard to the goldfields. At the time a draft bill was before the House for the 'Better Management of the Gold Fields'. This Committee, consisting of eight members of the Council plus the Colonial Secretary, the Attorney General, the Auditor General and the Surveyor General, represented a much more powerful group than had made up the earlier enquiry committee. The committee's activities spanned the period 2 September to 31 October 1853, and covered the period of conflict at Fryers Creek. A total of 26 witnesses were examined from 5th September to 8th October, representing opinions from a cross section of the population. To the extent that evidence regarding the leasing (or sale) of ground was taken, it was essentially generic and hypothetical, not specifically reflecting the events at Fryers Creek that occurred later in October. The committee's final report that appeared in late November was presumably influenced by the events that had transpired at Fryers Creek. Apart from motherhood statements about the impact of gold mining on the Colony, the report contained a number of recommendations including that:

The majority of your Committee ... can [not] recommend any general system for the sale or lease of the gold fields. Although well aware of the defects inherent in the licensing system, they have been compelled (after mature consideration of each substitute proposed in lieu thereof) to recommend its retention.

They also advise that, with a view of further developing the resources of the Colony, every encouragement not detrimental to or antagonistic with the pursuits of the individual Miner, should be held out to Companies to work such portions of land as would not repay private [individual] enterprise.⁵²

Subsequently, the Act for the 'Better Management of the Gold Fields' was promulgated in December 1853, followed by regulations that included some covering leasing. The main thrust was that auriferous lands would from time to time be proclaimed in the Government Gazette and after being surveyed would be open for application and sold to

the highest bidder.⁵³ The regulations covered both alluvial and quartz mining, and did not differentiate between capital companies and co-operative companies. On face value, the new regulations do not appear to have drawn on the committee's recommendations. To an observer with the benefit of hindsight, the deliberations of the Legislative Council Committee, and the promulgation of the new leasing regulations, would not seem to have done much to allay the concerns of the diggers, nor to have been influenced by the events at Fryers Creek. The diggers, however, appear to have reacted favourably to the new Act, at least initially.⁵⁴

Further Unrest: 1854

Despite the apparent lack of material progress, the issue of leases appears to have gone underground during the first half of 1854. The Port Phillip Co. having been notified officially by the Chief Commissioner in late November 1853 that the offer of the lease at Fryers Creek had been withdrawn, departed the Mount Alexander Goldfield. Once Governor LaTrobe left the Colony in early 1854, any further action on the issue of leases was put on hold until the arrival of his replacement (Governor Hotham) in June 1854, and the latter's familiarisation tour of the goldfields in August-September 1854.

Throughout the first half of 1854, the correspondence from the Resident Commissioner reflected a quiet period, with little discussion about leases, presumably because any previous promises of leases had been revoked, and new applications discouraged. In mid 1854, a campaign was undertaken to define areas of the various goldfields that might be considered worked out, apparently with a view to future leasing. On 22nd June, Captain Bull informed the Chief Commissioner of significant areas of the Mount Alexander Goldfield that might fit the criteria for this purpose.⁵⁵

In 1854, the *Mount Alexander Mail* came into existence. Launched in July 1854, the paper ran a series of editorials around the issue of the role of companies on the gold fields, suggesting that the time had come when companies could add value to exploitation of the goldfields. It is not clear if this represented the general view of the diggers, but it does reflect the onset of a different perspective within the community. In the 15th July and 6th October editions, the desirability of preference being given to companies formed from groups of working miners was advocated.

Despite any softening of attitude that might have occurred in the community at large, the diggers were again readily roused to action when in October 1854, Governor Hotham indicated his willingness to consider granting 'extended claims' to co-operative

parties (small companies). In October and November, the *Mount Alexander Mail* reported on various meetings of diggers held at Forest Creek and made obvious that suspicions had been roused as to the motives of government respecting leases.⁵⁶ Discussion flowed between the need for the diggers to have their say in the formulation of new regulations to absolute refusal to concede that there was any truly worked out ground in Victoria, and to concern over what was meant by 'worked out ground'. Before any action could be taken, the brewing conflict was overrun by events that took place at Eureka on 3rd December 1854.

The Eureka Royal Commission: November 1854 to March 1855

Following the events at Eureka, the previously appointed Royal Commission enquiring into the 'Condition of the Goldfields' that had been set up by Governor Hotham in November 1854 was enlisted to examine the circumstances of the rebellion. This examination was wide-ranging and comprehensive. Although concentrating on the issues surrounding the license system, the Commission gave detailed consideration to the question of leases for auriferous lands, and to the nature of the underlying prejudices and apprehensions commonly expressed by the diggers with respect to capitalist companies. The Commission was convinced that every encouragement should be given them so as to better exploit the rich resources of the Colony, but was cognizant of the sensitivities of individual diggers. In the Commission's view, the answer lay in encouraging co-operative companies of working miners, backed, where necessary, by local capital. This was in fact the model that proved to be the key to future development of the Victorian Gold Industry. In its final report, the Commission opined that:

Thus the common prejudice against the use of machinery is almost disappearing at Ballarat, where its advantages in mining are most evident. The Commission observed that the labour question was practically sharing a similar fate; for while theory was condemning employed labour, the necessities of society were quietly but widely establishing it.⁵⁷

The Eureka Commission recommended the total abolition of the license system and its replacement by the institution of a 'Miner's Right', in conjunction with a moderate export duty on production. The Commission also recommended the abolition of the Goldfield Commissioners.⁵⁸ Taking up on these recommendations, the Government drafted and promulgated a new Goldfield Act on 12th June 1855.⁵⁹ Among

other things, this Act empowered the Governor to grant gold mining leases, and to fix the rent or royalty to be paid. The Act also provided for the institution of local Mining Boards, consisting of members elected from the local mining population and chaired by a government appointed Warden to frame bye-laws, to frame local rules in relation to various mining issues that ‘the court should deem most beneficial’.⁶⁰ The arrangements set in place by the new act appeared to meet with general satisfaction. As noted:

At the period of its [the 1855 Act] passing may be said to have closed the first chapter in the story of Victorian gold mining, and with it a corresponding class of mining legislation. A lull began to be perceived in the stormy waters of agitation. The fierce clamors for a justice believed to be willfully withheld; the angry roar of infuriated passions, echoing from district to district, subsided ... The pursuit of gold mining was becoming more settled, and defined into one of the recognised industries of the colony; and henceforth the legislation which affected it was to be regular and bestowing, instead of being fitful and little more than permissive.⁶¹

The Move to the Acceptance of Mining Leases at Mount Alexander: 1855 to 1860

A set of byelaws covering the Mount Alexander Goldfield was duly formulated and published in the *Mount Alexander Mail* on 28th September 1855. These byelaws covered both alluvial and quartz mining. The concept of ‘registered claims’ was introduced by these byelaws as an alternative to leases, perhaps as a way of avoiding any anxiety that might still have been attached to the term lease. In effect, registered claims were leases in all but name. If the ground had been abandoned for at least six months, Registered Claims covering rectangular blocks of up to five acres [2.02 hectares] of previously worked alluvial ground were allowed for. Provision was made for double claims at the discretion of the local authority. Registered claims required the payment of an annual fee in addition to any royalty levied on production (the latter set at a maximum of five per cent of value). Similar rules applied in principle to quartz claims, with detailed definition of the shape and size of claims consistent with the complexities of quartz vein occurrences. Additional consideration was given in the rules for parties making initial discoveries, both in relation to alluvial and quartz ground, by way of a treble claim being allowed.

Although there were on-going mutterings about the unfairness of these rules to individual diggers, the tide appeared to swing. It was pointed out in the press that diggers could themselves benefit from the provisions by joining together into co-

operatives. Progressively, co-operative companies were formed for both alluvial and quartz mining. The advent of co-operatives pushed back the time scale for the introduction of capitalist companies on the Mount Alexander Goldfield. By 1859, legislation had been further refined and control over the issuing of large leases had reverted from the local Board to the Government.⁶² The time was ripe for capitalist companies, for the legitimate joint roles of capital and labour on the goldfields had begun to be accepted.⁶³ It was the start of a concerted effort to mine the prodigious quartz outcrops of the area in a systematic way that eventually led to the first rush of public companies to enter the fray. The first public company set up for quartz mining appears to have been the short lived Chewton Gold Washing Co.⁶⁴ This was followed soon after by the Old Specimen Gully Quartz Mining Association, which was to remain active for some years.⁶⁵ A number of other companies applied for leases as the quartz boom of 1859-60 developed. These companies were overwhelmingly financed from within the Colony, as was common in Victoria and compared to elsewhere in Australia. While the first quartz boom was all but over by the end of 1860 (only 10 or so leases still being extant),⁶⁶ by this time the mining population on the Mount Alexander Goldfield appears to have come to accept the idea of a gold mining industry based on company mining, with tenure secured by leases. The subsequent history of the Castlemaine area, as elsewhere, bears this out. Progressive refinement to Victorian mining law has taken place since 1860, all of which has had the effect of consolidating the role of company mining and mining leases.⁶⁷

Conclusions.

Although similar events did occur elsewhere in Victoria, Mount Alexander and particularly Fryers Creek were in the vanguard of resistance to the introduction of mining leases and company mining, and consequently had an important part to play in the evolution of community attitudes with regard to these issues. While the widespread reaction to the license system and its enforcement is often cited as having had a major part in the development of the enduring Australian attitude toward authority, the turbulent events of 1853 and 1854 on the Mount Alexander Goldfield may well be claimed to have had similar impact on the evolving Australian view regarding the value of egalitarianism and independence. Even though, with time, the benefits of the synergy between labour and capital became obvious on the goldfields, a remnant reminder of the raw emotions of 1853 and 1854 still lingers in Australian industrial relations to this day.

Endnotes

- ¹ See for example, G. Serle, 'The Causes of Eureka' in *Historical Studies*, Eureka Supplement, University of Melbourne, 1954, p. 15.
- ² G. Serle, *The Golden Age, a History of the Colony of Victoria, 1851-1861*, Melbourne UP, 1977, p. 25.
- ³ See for example, Gold Commissioner's report for 16 July 1853, Victorian Public Records Office [VPRS] 1189/86.
- ⁴ Minutes of evidence given to Legislative Council enquiry into the Gold Fields, Victorian Government Printer, November 1853, p. 41; See also the opposition towards capital in Serle, *The Golden Age*, p. 220.
- ⁵ *Australian Gold Diggers Monthly Magazine and Colonial Family Visitor*, November 1852, p. 48; see also observations by conservative chairman of the Eureka Royal Commission, in W. Westgarth, *The Colony of Victoria; its History, Commerce and Gold Mining*, London, 1864, pp. 221-222.
- ⁶ The involvement of the English and Australian Copper Co. with the Burra Mine in South Australia is described in, Ian Auhl, *The Story of The 'Monster Mine' The Burra Burra Mine and Its Townships 1845-1877*, District Council of Burra, 1986.
- ⁷ Letter from Earl Grey to H.M. Schneider on behalf of the Port Phillip and Colonial Gold Mining Co., 30 January 1852, State Library of Victoria, LaTrobe Manuscript Collection, MS12057, Box 2560/1.
- ⁸ Extract of instructions given to Mr Evan Hopkins by the Court of Directors of the Port Phillip etc. Co., contained in a letter to Governor LaTrobe from Hopkins, 12 June 1852, VPRS 1189/84.
- ⁹ *London Mining Journal and Railway Gazette*, 23 October 1852, p. 7.
- ¹⁰ Letter from Hopkins on behalf of the Port Phillip Co. to Governor LaTrobe, 5 August 1852, VPRS 1189/84.
- ¹¹ D. Reilly, 'Victoria's First Governor' in *The LaTrobe Journal*, State Library of Victoria, no. 71, Autumn 2003, p. 93.
- ¹² Summarised from Despatches from Governor LaTrobe to the Secretary of State for the Colonies, no's 38, 45 and 53, *Parliamentary Papers for 1851*, Victorian Government Printer, pp. 251-261.
- ¹³ Despatch from Governor LaTrobe to the Secretary of State for the Colonies, no. 53, 3 December 1851, *Parliamentary Papers for 1851*, Victorian Government Printer, p. 259.
- ¹⁴ *Ibid.*, no. 58, 19 December 1851, p. 271.
- ¹⁵ R.W. Birrell, *Staking a Claim, Gold and the Development of Victorian Mining Law*, Melbourne UP, 1998.
- ¹⁶ *Victorian Government Gazette*, August 1851.
- ¹⁷ *Ibid.*
- ¹⁸ *Ibid.*, October [August] 1851.
- ¹⁹ Act, Vic. 15, Mining on Waste Lands, January 1852, Victorian Government Printer.
- ²⁰ *Victorian Government Gazette*, October 1852.
- ²¹ Report of Legislative Council Select Committee enquiry into Management of the Gold Fields, Victorian Government Printer, January 1853, pp. iv - v.
- ²² Report of *ad hoc* board set up by Governor LaTrobe to 'Take evidence and report upon the most advisable method of issuing or granting leases of lands at the Gold Fields to companies or associated miners', 24 February 1853, VPRS 1189/84.
- ²³ See for example, G. Hocking, *Early Castlemaine - A Glance at the Stirring Fifties*, New Chum Press, 1997.
- ²⁴ See for example, W.M. Baragwanath, *The Castlemaine Goldfield, Geological Survey of Victoria, Memoir no. 2*, Victorian Government Printer, 1903.
- ²⁵ J. Woodland, *Sixteen Tons of Clunes Gold, A History of the Port Phillip and Colonial Gold Mining Company*, Published by the Clunes Museum, 2001, p. 19.
- ²⁶ Letter to Colonial Secretary from Mr R. Bland on behalf of the Port Phillip and Colonial Gold Mining Co., 11 January 1853, VPRS 1189/84.
- ²⁷ Minutes of evidence given to Commission Appointed to Inquire into the Condition of the Goldfields, Victorian Government Printer, 1855, pp. 292-293.
- ²⁸ See for example the case of the Ovens Mining Company as reported in the minutes of evidence given to an Enquiry held by a Select Committee of the Legislative Council into the Ovens Mining Company Bill, Victorian Government Printer, 1853, p. 7.
- ²⁹ Minutes of evidence given to Commission Appointed to Inquire into the Condition of the Goldfields, Victorian Government Printer, 1855, p. 294.
- ³⁰ Report by Resident Gold Commissioner Bull to Chief Commissioner for the Goldfields, 6 July 1853, VPRS 1189/88.

- ³¹ Letter from Chief Commissioner for the Goldfields to the Colonial Secretary, 20 July 1853, VPRS 1189/88.
- ³² Letter to Colonial Secretary from Mr. R. Bland on behalf of the Port Phillip and Colonial Gold Mining Co., 3 August 1853, VPRS 1189/88.
- ³³ See LaTrobe's annotation on Bland's letter of 3 August 1853.
- ³⁴ Letter from Chief Commissioner for the Goldfields to the Colonial Secretary, 3 October 1853, VPRS 1189/88.
- ³⁵ Report by Resident Gold Commissioner Bull to Chief Commissioner for the Goldfields, 13 October 1853, VPRS 1189/88.
- ³⁶ See for example, article dated 17 October 1853, from Mount Alexander Correspondent, *Melbourne Argus*, 24 October 1853.
- ³⁷ See for example, articles in, *Geelong Advertiser and Intelligencer*, 21, 25, 31 October 1853.
- ³⁸ See for example, article dated 14 October (updated) from Mount Alexander Correspondent, *Melbourne Herald and Port Phillip Gazette*, 20 October 1853.
- ³⁹ Letter from Company representative H.A. Thompson to Resident Director of the Port Phillip Co. R.H. Bland, 17 October 1853, VPRS 1189/88.
- ⁴⁰ Letter from Resident Commissioner Bull to Chief Commissioner for the Goldfields, 18 October 1853, VPRS 1189/88.
- ⁴¹ Application for Lease at Fryers Creek under April 1853 Regulations by Spring Gully Gold Mining Co., 6 August 1853, VPRS 1189/87.
- ⁴² Application for Lease at Fryers Creek under April 1853 Regulations by Victoria Co-operative Gold Co. Sept. 12 1853, Victorian Public Records Office, VPRS 1189/87.
- ⁴³ Letter from Resident Commissioner Bull to Chief Commissioner for the Goldfields, 18 October 1853, VPRS 1189/88.
- ⁴⁴ Letter from the Chief Commissioner for the Goldfields to the Colonial Secretary, 24 October 1853, VPRS 1189/88.
- ⁴⁵ Report of enquiry held into the Nature of Opposition to Leasing Land at Fryers Creek to the Port Phillip Co., 5 November 1853, VPRS 1189/88.
- ⁴⁶ See point 6 in report of enquiry, 5 November 1853, VPRS 1189/88.
- ⁴⁷ See annotation on letter from the Chief Commissioner for the Goldfields to the Colonial Secretary, 12 November 1853, VPRS 1189/88.
- ⁴⁸ Article by Mount Alexander Correspondent dated 27 October 1853, *Melbourne Herald and Port Phillip Gazette*, 31 October 1853.
- ⁴⁹ *Ibid.*
- ⁵⁰ *Ibid.*
- ⁵¹ *Geelong Advertiser*, 14th November 1853.
- ⁵² Report of Legislative Council enquiry into the Goldfields, Victorian Government Printer, November 1853, pp. vi-viii.
- ⁵³ *Victorian Government Gazette*, March 1854.
- ⁵⁴ See report of Resident Commissioner dated 12 December 1853, VPRS 1189/89.
- ⁵⁵ Letter from Resident Commissioner Bull to the Chief Commissioner for the Goldfields, 22 June 1854, VPRS 1189/91.
- ⁵⁶ *Mount Alexander Mail*, 20th, 27th October; 3rd, 17th November 1854.
- ⁵⁷ H. Anderson (ed.), *Report from the Commission Appointed to Inquire into the Condition of the Goldfields*, Red Rooster Press, Melbourne, 1978, p. 91.
- ⁵⁸ R. Brough Smythe, *Gold Fields and Mineral Districts of Victoria, Notes on the Mode of Occurrence of Gold and Other Metals and Minerals*, Victorian Government Printer, 1869, p. 384.
- ⁵⁹ *Ibid.*
- ⁶⁰ *Ibid.*
- ⁶¹ *Ibid.*
- ⁶² Birrell, *Staking a Claim*, p. 109.
- ⁶³ See for example, article in *Mount Alexander Mail*, 7 May 1858.
- ⁶⁴ *Colonial Mining Journal, Railway and Share Gazette*, January 1859.
- ⁶⁵ *Ibid.*, May 1859.
- ⁶⁶ Reports of the Mine Surveyors for Castlemaine and Fryerstown Divisions, Department of Mines, Victorian Government Printer, December 1860.
- ⁶⁷ Birrell, *Staking a Claim*.