

## No. 9.

Copy of a Telegram, dated 24th November, 1869, from the Hon. W. GISBORNE to the  
SUPERINTENDENT, Nelson.

Colonial Secretary's Office.

Wellington, 22nd November, 1869.

THE following notice has been substituted for that enclosed in my letter of the 20th instant:—

In consequence of further information which the Government have received from His Honor the Superintendent of the Province of Nelson, and the Commissioner of Crown Lands at Nelson, on the subject of the sale of certain sections of land, supposed to be auriferous, at Wangapeka, in that Province, the Government do not consider it, under all the circumstances, conducive to the public interests to enforce the right of the Crown to the gold in such lands, and have accordingly cancelled the letter written to the Superintendent of Nelson, on the 1st instant, in respect of the same.

Although this enforcement has been waived in respect of those particular lands, the Government reserve their right, in the interests of the public, to that enforcement in respect of other sales of auriferous land; and Commissioners of Crown Lands and Waste Lands Boards are cautioned against allowing such sales to be made, and the public interests thereby to be infringed.

His Honor the Superintendent, Nelson.

W. GISBORNE.

## No. 10.

Copy of a Letter from the SUPERINTENDENT, Nelson, to the Hon. W. GISBORNE.

SIR,—

Nelson, November 30, 1869.

I have the honor to acknowledge the receipt of your letter of the 20th instant, together with a minute by the Attorney-General, and copy of notice for the *Gazette*, and also of your telegram of the 24th, substituting an amended form of notice.

I am glad that the Government has consented to cancel their circular of the 1st instant, so far as regards the land lately sold at Wangapeka; but I cannot admit that their doing so tends in any way to relieve the Provincial Government, or the Land Board of Nelson, from difficulties "in which they have involved themselves."

The only effect of the notice now issued is partially to relieve the Provincial Government and the Land Board from the difficulties in which they have been involved by the action of the General Government.

The opinion of the Government, that no further sales ought to be allowed in the district, is, as you are aware, fully shared in by the Waste Lands Board, who withdrew the whole of the lands in the district from sale immediately after these small purchases were made—namely, on the 14th October last, or upwards of a month before the date of the letter in which you express that opinion.

Your reference to "a valuable gold field passing into private hands" can scarcely be considered to be applicable to the unavoidable sale of the trifling quantity of 130 acres of land to upwards of thirty persons. No gold field, in this Island at all events, comprises less than some hundreds of thousands of acres, and in most cases some millions of acres. The value of the district in which the few acres referred to are situated has yet to be proved, although, as I have said in a former letter, I think there is good reason to believe that it will be second to none in the Colony.

Passing over that portion of the Attorney-General's minute which relates to the abstract rights of the Crown, a question which I agree with you it is not necessary to discuss further at present, I come to that part of the minute in which the Attorney-General seems to me to indulge in a play upon words, in his use of the term "auriferous." It is not the opinion of an individual miner, or the credit which may be attached to that opinion by particular members of the Waste Lands Board, which makes land "auriferous" in law, or which causes it to cease to be "rural," and to be no longer open to purchase at £2 per acre.

A formal act of the Waste Lands Board as a body, duly notified in the Provincial Government *Gazette*, is necessary to do this, and as has been repeatedly pointed out, this act was done at the earliest practicable moment, the *Gazette* printed and issued, and the whole of the land in the district withdrawn from sale.

The Attorney-General says:—"The Superintendent forgets the ample powers given by 'The Nelson Waste Lands Act' for the purpose of preventing the acquisition of land, such as auriferous land, which ought always to be in the hands of the Government." The prompt use of those powers by the Waste Lands Board on this occasion is sufficient proof that the Superintendent did not forget them; and I think I may fairly retort upon the Attorney-General, that it is he who forgets that the power of foreseeing the discovery of auriferous quartz reefs is not among those conferred by the Act.

But the Attorney-General, to my extreme surprise, goes on to say:—"The application for purchase did not prevent withdrawal of the land, or the reservation of it for a gold field, *even after application*; see section 9 of 'The Nelson Gold Fields [Waste Lands?] Act, 1863.'" I think the Attorney-General fails to distinguish between an actual purchase and an application to purchase.

When a man tenders his money in the Land Office for a section of land which is open for sale to the public, I contend that he has thereby bought that land, and that neither the Commissioner of Crown Lands, nor the Waste Lands Board, nor the Provincial Government, has any power to interfere between the purchaser and his purchase, even if it should suddenly appear, at the moment of the purchase, that the land is worth ten times or a thousand times the amount of the money for which it was the legal right of the purchaser to buy it, or however much the public interests might be supposed to suffer by the sale. I have shown in a former letter, that the Supreme Court has already so decided the point as a matter of law, and there can surely be no question upon it as a matter of good faith and common justice. The words in the ninth section, on which the Attorney-General relies, appear to me clearly to refer to "an application to purchase," as defined in the thirtieth section, and not to a