

# PAPERS

RELATIVE TO

## THE WANGAPEKA LAND SALES

AND

INQUIRY RESPECTING THE SAME BY THE GENERAL  
GOVERNMENT.

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PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY, BY COMMAND OF  
HIS EXCELLENCY.

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WELLINGTON.

—  
1870.

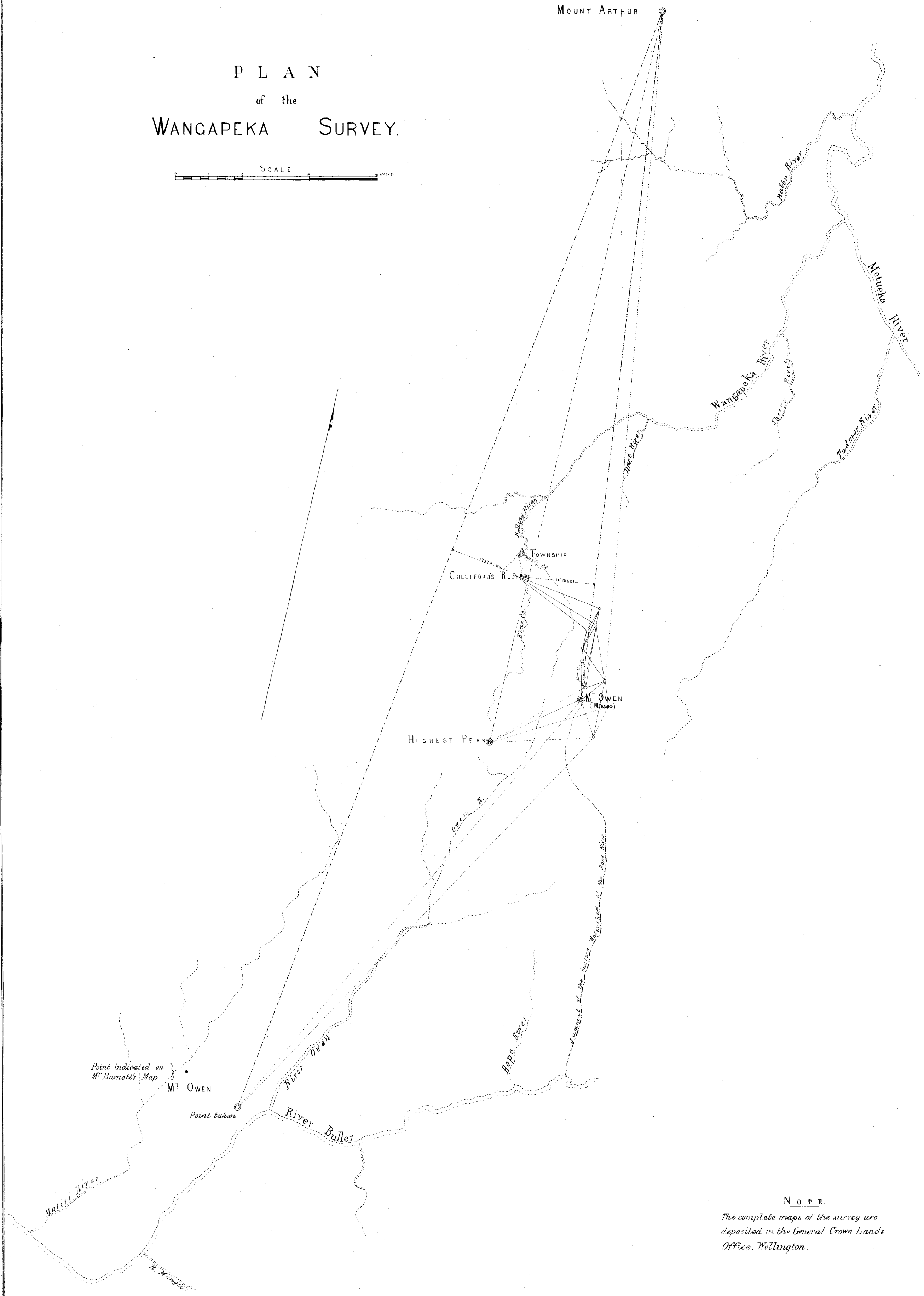
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P L A N  
of the  
WANGAPEKA SURVEY.



N O T E.

The complete maps of the survey are deposited in the General Crown Lands Office, Wellington.



PAPERS RELATIVE TO THE WANGAPEKA LAND SALES AND INQUIRY RESPECTING  
THE SAME BY THE GENERAL GOVERNMENT.

No. 1.

Copy of Telegram from the Honorable the PREMIER to the COMMISSIONER of CROWN LANDS,  
Nelson.

Wellington, 25th October, 1869.

SEND full report on subject of sale of auriferous land at Wangapeka, showing names of purchasers, whether holding Government offices, and what offices, and date of sales; and state when and how it became known that the land was auriferous.

Reply by telegraph.

WILLIAM FOX,  
Premier.

No. 2.

Copy of Telegram from the COMMISSIONER OF CROWN LANDS to the Honorable the PREMIER.

Nelson, 25th October, 1869.

ON Wednesday the 13th instant, a miner named Culliford applied to me for a gold-mining lease, or some other protective document for quartz crushing and general gold-mining purposes in the District of Wangapeka. By the seventieth section of "The Nelson Waste Lands Act, 1863," gold-mining leases may be issued by the Waste Lands Board over lands not within a gold field. To this section he was referred; but the latter clause of it was a bar to his obtaining under it the protection he required, and which was necessary in such a case as his, being that of the discoverer of an auriferous quartz reef. He was then referred to the thirty-fifth section of the same Act, which provided that certain lands may be bought at two pounds an acre. Under this section he purchased sixteen acres. The two members of the Waste Lands Board in town—the Superintendent and the Commissioner of Crown Lands—immediately decided to summon the third member, the Speaker of the Council, who resides in the country, to hold a meeting the next morning, for the purpose of bringing the district under the operation of the ninth section of the same Act. The meeting was held the next morning, and the *Gazette* withdrawing the land from sale published at twelve noon. On the afternoon and evening of Wednesday, the fact of Culliford's purchase was generally known in the town, and immediately on the opening of the office on the Thursday, there was a rush of people to purchase land at Wangapeka under the said thirty-fifth section. The sales continued until the *Gazette* appeared. How the matter became known I can only report from hearsay, which is to the effect that Culliford himself published abroad his purchase. The officers who, by reason of their official position, were aware of the discovery, were the Superintendent, the Provincial Secretary and his clerk, Commissioner, Receiver of Land Revenue, and Draughtsman. The officers who purchased: C. L. McLean, Registrar of Supreme Court; J. Sharp, Treasurer; J. Harley, Clerk to Magistrate; H. D. Jackson, Auditor; R. Shalcrass, Inspector of Police; T. Brunner, late Chief Surveyor.

To W. Fox, Premier, Wellington,

H. C. DANIELL,  
Commissioner of Crown Lands.

No. 3.

Copy of a Report by the COMMISSIONER of CROWN LANDS, Nelson, on the recent Sale of  
Auriferous Lands in the Wangapeka District.

Crown Lands Office, Nelson, 30th October, 1869.

IN forwarding a detailed report on the subject of the late sales of auriferous lands in the District of Wangapeka, and the questions connected therewith, it seems most fitting to commence with the sales themselves.

On the morning of Wednesday, the 13th instant, Mr. Greenfield, the Provincial Secretary, came to me, stating that a gold-miner had come to his office with specimens of gold-bearing quartz, purporting to have been taken from a reef which he had discovered in the district of Wangapeka, and over a portion of which he was desirous of obtaining a gold-mining lease, or some other document which would at once protect his discovery.

I showed Mr. Greenfield the section in "The Waste Lands Act, 1863," which empowers the Waste Lands Board to grant gold-mining leases over land not within a gold field, at the same time pointing out that the latter clause of the section would not meet the necessities of the present case; and then referred him to the thirty-fifth section, as being the only one which would secure to the miner the protection he needed.

Shortly after, Mr. Greenfield brought the man himself (Culliford), when I pointed out to him the clauses of the Act referred to above. Culliford naturally declined to run the risk of losing the benefit of his discovery by allowing it to go to auction, which could not have taken place without a survey, or under a month's notice at least. He, however, hesitated to avail himself of the thirty-fifth section, and went away for a short time, presently returning in company with Mr. E. Everett, having decided to buy. The purchase of sixteen acres was then duly effected.

During the whole of the conversation respecting the matter, he had expressed his anxiety that his business should not be known, as he said he was afraid of the ground being rushed, unless he could proceed there first. I told him that, if he kept his own counsel, the matter would not transpire.

The locality of the reef, and the land thus purchased, is shown on the accompanying tracing.

Mr. Curtis, the Superintendent, was present when Culliford came to effect the purchase, and we agreed to call a meeting of the Waste Lands Board for the next morning, to take steps for suspending the operation of the thirty-fifth section over the district in which the supposed or reported reef was located.

The Board is composed of the Superintendent, Mr. Barnicoat (the Speaker of the Provincial Council), and myself.

Mr. Barnicoat resides about nine miles away; and our usual practice, in case of a special meeting being called, is to forward a letter by the driver of the mail-van, who sees to its being forwarded immediately.

In consequence of bad weather, the van had not come into town that day; and during the afternoon no other opportunity of forwarding the letter presented itself.

Neither Mr. Curtis nor myself thought it necessary to summon Mr. Barnicoat for an earlier meeting than the next morning, more especially after Culliford's repeatedly expressed desire to keep the matter quiet.

On the next morning upon my arrival at the office, Mr. Catley, the Receiver of Land Revenue, met me at the door to inform me that several persons were prepared to buy allotments of land under the thirty-fifth section, in the district of the Wangapeka, and adjoining Culliford's, and asked whether he must receive their money. I replied, that he must do so till the Board had met, but I would go to Mr. Curtis at once for the purpose of taking such immediate steps as we could for stopping the sales. Upon meeting Mr. Curtis, I informed him of the failure in forwarding the summons to Mr. Barnicoat, and proposed our taking action without him. This he thought would be illegal, which of course I saw at once, and a special messenger was thereupon sent to fetch him; whilst, in the meantime, we prepared and forwarded to the printer a short *Gazette* notice reserving the district from sale, in order to be constituted a gold district, as provided in the ninth section of the Act, so that upon Mr. Barnicoat's arrival a minute of reservation might be adopted and recorded, and then the printed *Gazette* could be immediately posted in the office, and sales stopped.

The messenger met Mr. Barnicoat close to the town coming in, so that in a very little time the sales were stopped.

The quantity purchased, including Culliford's, was 130 acres, in nine lots. The fact of Culliford's purchase became known abroad in the town during the evening of the 13th, and I believe was reported by himself, or Mr. Everett, and a rush to purchase was the consequence.

Both Mr. Curtis and myself have been censured respecting this matter; for allowing the sales at all; for not immediately summoning Mr. Barnicoat; and for allowing Government officers to purchase.

With respect to the first of these matters, I submit that the thirty-fifth section of "The Nelson Waste Lands Act, 1863," was in operation over the district in question until the issue of the *Gazette* notice required by the ninth section; and also, that whilst, as you are aware, some clauses of the Act must be administered by the Board, and not by the Commissioner only, other clauses are administered by him on his own responsibility; and in case of his failure so to administer, or of doing so in an illegal manner, any action of the Supreme Court, either by way of *mandamus*, or injunction, or any action taken into the Supreme Court for damages, would be directed to or against him personally, and that therefore I was bound to accede to the applications for purchase.

With respect to the matter of not immediately sending for Mr. Barnicoat, I can only repeat that we did not see any necessity for such urgency, or we certainly should not have lost any time.

As to the purchase by Government officers, I may say that the officers who became acquainted with the matter officially were the Superintendent, the Provincial Secretary, and the clerk in his office, the Commissioner of Crown Lands, the Receiver of Land Revenue, and the draughtsman in the Survey Office; and that the Government officers who purchased land (and whose names have already been forwarded by telegram, in accordance with instructions from the Premier), obtained their information through the same channel as the other purchasers—and, I conclude, had an equal legal right to purchase, and could not have been refused as purchasers by me.

The discovery of a quartz reef, and the purchase by the discoverer of a block of sixteen acres, having thus become a matter of public notoriety, a rush to the locality was the consequence, both from the immediate neighbourhood and also from the town, the men as they arrived upon the ground proceeding to mark off claims for themselves along the line of the reef (having previously marked off a double claim for the discoverer), and stated their determination not to allow the survey of the blocks purchased on the 14th instant; so that when Mr. G. Sinclair, the surveyor employed by Culliford to lay off his land, arrived on the spot, they would not allow him to do so.

In the meantime, the Superintendent and Executive Council had despatched Mr. James Burnett to examine and report upon the discovered reef. A copy of this Report I enclose. Upon his return the Superintendent decided upon proclaiming the whole of the district and neighbourhood as an extension of the South-west Gold Fields, and telegraphed to Mr. Broad, at Charleston, to come up and take temporary charge of the district.

One of the most important questions arising out of this matter, and which affects the legality of the sale, has been raised outside the office, viz., Is the quartz reef and the land purchased on the 13th and 14th instant, within or outside the boundary of the South-west Gold Fields as previously proclaimed?

The portion of the Eastern boundary of the South-west Gold Fields affected by the question is, as proclaimed in the Provincial *Gazette*, of the 8th June, 1868, No. 29, the straight line running from Mount Arthur to Mount Owen. The position of the latter, or which mountain is the true Mount Owen, is a question included in the previous one.

The only documents to which I, as Commissioner of Crown Lands, can refer for settling as to the

whereabouts of Mount Owen, are a plan prepared under the direction of Mr. Julius (now Dr.) Haast, and a Report by the same gentleman of an exploring journey from Nelson to the West Coast, undertaken in 1860.

On the plan referred to, Dr. Haast has expressly marked a point of a mountain range lying to the westward of the junction of the River Owen with the River Buller, and between the Rivers Owen and Matiri—as so named by himself.

On the tracing enclosed, this point is marked as Mount Owen, and is in accordance with his own plan.

Now, if a straight line be drawn from that point to Mount Arthur (as fixed by Mr. Lewis's survey), the reef and purchased land are some miles outside the gold fields, and the question may be considered settled.

The objectors, on the other hand, claim for some peak or peaks at the head of the valley of the River Owen the name of Mount Owen, and from which they say it takes its rise, and appeal to a map of the Provinces of Nelson and Marlborough, published in London, in the year 1864, by Edward Stanford, in which a point at the head of the said valley is so named. Now, if a line be drawn from a peak so situated to Mount Arthur, it becomes then a matter of accurate survey as to the exact position of the reef, &c., with reference to such line.

In support of the officially-recorded position of Mount Owen, I beg to refer you to Dr. Haast's Report (a copy of which I enclose), in which, on page 12, he describes the position of Mount Owen, and his naming it; page 14, his naming the River Owen; page 55, the position of the mountain as looking from the West Coast, from a point just North of the Buller; page 73, the source of the River Owen, as not being from Mount Owen, but from another chain of hills altogether; page 74, the position of Mount Owen, when looking towards the West and North-west; and page 75, where Mount Owen is described as situated near the Eastern branch of the Matiri.

Finally, in support of the official view of the position of Mount Owen, I may adduce the testimony of Mr. Alexander Mackay (the Commissioner of Native Reserves), and Mr. James Burnett, both of whom were associated with Dr. Haast in his exploring journey, and who say decidedly that the plan in the office indicates the position of the true Mount Owen.

Another question has been raised in the local papers, which is, Why has the district of the Wangapeka, known for many years to be a gold-bearing district, not been closed to land sales and leases long ago?

The district of the Wangapeka and its tributaries, together with other valleys trending eastward from Mount Arthur, have been proved to be auriferous, but, as yet, only to the extent of what is termed "a poor man's diggings"—a diggings or field capable of supporting a limited number of men who, by much hard labour, can procure a sufficient quantity of gold for their own support, but not in such quantities as to draw a rush of miners, and render necessary the establishment of machinery required for the management of larger and richer fields.

For nine or ten years past, as you may remember, men have been thus quietly working, and though from time to time large bodies of men from other fields have visited these districts, nothing has turned up to warrant their remaining, or that would show an opening for a large mining population.

Accordingly, gold mining in those districts has been quietly going on, and the gradual settlement of the land by more permanent occupiers, for the purposes of grazing and cultivation, been advancing also, the miners in many cases becoming settlers; and others of their class, as the lower parts of the valleys became settled or worked out, have pushed further back.

The Land Leasing Act, which has proved a great boon to the Province generally, by enabling settlers to push back from the more available districts amongst the hills and outlying valleys, was quickly taken advantage of by persons residing in the districts referred to above; several leases having been issued in those localities already, and several applications (say eight or ten) are awaiting the completion of the surveys to enable them to be issued also. Most of these applications have been lodged many months, but the Waste Lands Board has decided to suspend their issue for the present.

In one instance an application was objected to, on the ground that the land comprised in it was auriferous, and therefore the application was not acceded to. Even in this case, the men objecting did not remain long on the ground.

The applications for leases under the Leasing Act, are always published for one month prior to issue.

It is known that some of the leaseholders wash for gold, as well as follow grazing pursuits, and thus make out a living; but without any disparagement to the gold-digger, either as to character or occupation, the Board has considered that the country generally was more benefitted by encouraging permanent settlement, than by shutting up those isolated districts to settlers of that class, and leaving them open only for the few miners who might find merely a present support, and after taking out the gold (their only object of pursuit), then abandon the district or province for other fields.

In short, the Board considered the question of granting leases in those districts, as one of present and proved benefit in opposition to an uncertain and doubtful one, and decided in favour of the former.

Of course in the case of gold being found in such large quantities, either in the shape of a payable auriferous quartz reef (as the present one is supposed to be), or in that of rich and extensive alluvial diggings, the question of most benefit would preponderate in favour of bringing such district under the full operation of the Gold Fields Act, &c., and the Board would take action accordingly; but, hitherto, though rumours of good finds were heard from time to time, the Board thought it right to wait for something certain and definite, before closing the district in question to further permanent settlement.

The enclosed tracing shows the auriferous districts now to be included in the South-west Gold Fields, together with the relative position of the quartz reef; also the sold land coloured yellow, and the leased lands bordered yellow; also, the previous line of the South-west Gold Fields, from Mount Arthur to the Mount Owen as laid down by Haast.

The Secretary for Crown Lands,  
Wellington.

H. C. DANIELL,  
Commissioner.

## PAPERS RELATIVE TO THE

## No. 4.

Copy of a Letter from the Hon. WILLIAM FOX to the SUPERINTENDENT, Nelson.

Colonial Secretary's Office,

Wellington, 1st November, 1869.

SIR,—

Circumstances attending the sale of certain auriferous lands in the Province of Nelson having called the attention of the Government to the general question of the sale of such lands, I have to inform your Honor that the opinion of the Attorney-General has been taken, which opinion is to the effect that the precious metals do not pass by a sale of the waste lands of the Crown containing them, and that an injunction would be granted by the Supreme Court to prevent the gold being taken therefrom.

I have also the honor to inform you that, in order to protect the interests of the public and prevent auriferous lands being bought up by individual purchasers, it is the intention of the Government to cause the law in this particular to be enforced.

His Honor the Superintendent, Nelson.

I have, &amp;c.,

WILLIAM FOX.

## No. 5.

Copy of a Letter from the SUPERINTENDENT, Nelson, to the COLONIAL SECRETARY.

Superintendent's Office,

Nelson, 3rd November, 1869.

SIR,—

I have the honor to acknowledge the receipt of your circular letter of the 1st instant, in reference to the right of grantees of land from the Crown to the precious metals therein, in which you inform me that the Attorney-General is of opinion that those metals do not pass by a sale of the Waste Lands of the Crown containing them, and that an injunction would be granted by the Supreme Court to prevent the gold being taken therefrom.

You also inform me that it is the intention of the Government to cause the law in this particular to be enforced.

I wish to point out to you, in reply, that it appears to me that in the absence of vital alterations in the laws of property in other respects, the effect of the course which the Government proposes to take would be to lock up such land from the miner as well as from the owner, and to prevent the development of resources of great value to the Colony; for I conceive, granting that the Crown has the power to prevent the freeholder mining upon land purchased from the Crown, the law does not empower the Crown, either by itself or others, to enter upon and break the surface of such land for the purpose of mining for gold or any other metal.

I shall be glad to be furnished with the views of the Government on this subject as early as possible, as it is one of the greatest interest and importance to this Province at the present time; and the uncertainty which prevails with respect to it almost entirely suspends the enterprise both of the freeholder and of the miner in the Wangapeka District, where the unfortunate difficulty referred to has lately arisen.

The Hon. the Colonial Secretary, Wellington.

I have, &amp;c.,

OSWALD CURTIS.

## No. 6.

Copy of a Letter from the Hon. WILLIAM FOX to the SUPERINTENDENT, Nelson.

Colonial Secretary's Office,

Wellington, 17th November, 1869.

SIR,—

I have the honor to inform you that I have referred previous correspondence on the subject of the land sales at Wangapeka to Mr. Attorney-General, and I beg now to enclose a copy of a Minute by him on the subject.

His Honor the Superintendent, Nelson.

I have, &amp;c.,

WILLIAM FOX.

## Enclosure in No. 6.

Minute by the ATTORNEY-GENERAL.

THE Crown may not be able to authorize others to mine for gold in land not the property of the Crown or of the person so to be authorized, but as the Crown alone can authorize mining for gold on land to whomsoever the freehold belongs, the Crown is thereby able to control such mining. It does not follow, as the Superintendent suggests, that because the freehold of the land belongs to one person, and the right to mine for gold belongs to the Crown, the mining for gold is prevented and the lands or gold "locked up." On the contrary, it is apparent that in the case of Native land, though the Crown asserts this right, mining for gold is extensively conducted on Native lands.

The effect of the assertion of this right by the Crown is to prevent unwholesome monopoly and unfair dealing with auriferous land. How can the Crown with justice say to the Natives (now that their absolute right to their lands is accorded them), that they cannot mine for gold on their lands without the authority of the Crown, and at the same time admit that the purchaser from the Crown has an undisputed right to the mines?

I think that if the Crown had not this right it would be most disastrous to the best interests of the Colony. In a country where it is impossible to say that this or that district is not auriferous, if the purchaser of land from the Crown could, by buying the freehold, absolutely and without fear of



interference exclude the miner, and arbitrarily fix his own terms as to permitting mining, the result would be that the sale of land would have to be altogether stopped, or the utmost disorder and ill-feeling be created amongst the mining population.

I think that the Superintendent must not conclude that the Crown has not the right to enter upon purchased land for the purpose of opening mines for gold. The better opinion seems to be, that the Crown has the right to enter upon land for that purpose.

I have read the papers, and referred to "The Nelson Waste Lands Act, 1863," and am unable to understand how the Waste Lands Board, after it was informed, as it was by the very first applicant, that the land was auriferous, could venture to sell the land as rural land in the face of the Waste Lands Act, which expressly provides that auriferous land shall not be leased till offered for sale by auction at a price not less than £10 per acre, thus clearly showing that auriferous land shall not be sold at less than £10 per acre, and shall always be sold by auction. Moreover, I should have thought that if the Board had thought fit, there could be no doubt as to their power to withdraw the land after the application had been made.

I observe that the Commissioner says the sales only amounted to 130 acres; this does not seem to agree with the statement in the telegram, in which the applications were for a much greater extent of country.

I remember that in Dunedin, a Provincial Government officer, not connected with the Waste Lands or Gold Fields Departments, while travelling about on service, received information of the auriferous nature of certain land then open for sale, and because he did not at once apprise the Government of this fact, but on the contrary put in an application as a purchaser, he was considered to have been guilty of neglect of his duty as a public officer; and the Government called upon him either to resign his office or throw up his right to the land. He determined to hold to the land, and it turned out anything but auriferous.

12th November, 1869.

J. PRENDERGAST.

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### No. 7.

Copy of a Letter from the SUPERINTENDENT, Nelson, to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 18th November, 1869.

I have the honor to acknowledge the receipt of your letter of the 17th instant, enclosing a memorandum by the Attorney-General, in reference to my letter to you of the 3rd instant, and to the general question of the late purchases of land in the Wangapeka District.

The only way, I believe, in which the Crown has hitherto exercised its prerogative in England, where it undoubtedly exists, is by claiming a royalty upon the metals raised, and never by prohibiting the freeholder from raising them from his own land. The Government of this Colony already exercises the prerogative of the Crown by imposing a royalty upon the value of the gold raised, whether upon private land or upon land belonging to the Crown, in the form of an export duty of half a crown an ounce.

The Attorney-General admits that the Crown cannot give general authority, by miners' rights or otherwise, to enter upon private land for the purpose of mining for gold, although he thinks the Crown might do so itself, or by its immediate agents. As the latter course is not likely to be pursued, I see nothing in the Memorandum to shake the opinion I expressed, that the effect of the course the Government announces its intention to take, would be to lock up auriferous freehold lands altogether, to the manifest injury of the Colony.

I am neither competent nor desirous to enter into the difficult and complicated question raised by the Attorney-General as to the relations between the Crown and the Natives in respect to their lands, nor do I see that it has any legitimate bearing upon the subject.

The Attorney-General expresses surprise that the Waste Lands Board should venture to sell land as rural after it had been "informed" that that land was auriferous.

The Attorney-General must surely be aware that the unconfirmed assertion of a single person, wholly unknown to the Board, does not make land auriferous in fact, and still less in law. Until the land had been formally classed as mineral land by the Board, or until it was formally withdrawn from sale by notice in the *Gazette*, it was legally open for sale, by free selection, at £2 per acre. The land was withdrawn from sale as soon as a meeting of the Board could be called, and a *Gazette* printed and issued—namely, on the following morning, at half-past 11 o'clock.

The Attorney-General thinks there can be no doubt as to the power of the Board to withdraw the land after the application had been made,—by which I understand him to mean that the application to purchase might have been refused. Such a course, would, in my opinion, have been not only extremely unjust to the individual, and highly impolitic as regards the public, whose interest it is to encourage, and not to defeat and deter, efforts of exploration and enterprise, but it would also, I think, have been clearly illegal. At all events, a similar proceeding was pronounced to be so by the Supreme Court some twelve years ago. I refer to a case which occurred at the outbreak of the Collingwood Gold Fields, when Mr. Domett, the then Commissioner of Crown Lands in Nelson, refused an application to purchase a large block of land on the ground of the discovery of gold, but was subsequently required by the Supreme Court to allow the purchase to be completed.

The Attorney-General refers to a clause in "The Waste Lands Act, 1863," which empowers the Board to lease auriferous land after it has been offered at auction at an upset price of £10 per acre. This clause, it seems clear to me, refers to land which the Board has decided to be auriferous, and not to land which is open to free selection at £2 per acre.

The only bearing it appears to me to have upon this case is, that the Act authorizes the sale of land declared by the Waste Lands Board to be auriferous, and that in this respect the policy of the clause is at least doubtful. The question of price is not of much importance, except so far as it affects the Provincial funds; but the question of the sale, under any circumstances, of land declared by the Waste Lands Board to be auriferous is one of very grave importance, and I shall bring the matter

under the consideration of the Provincial Council, with a view to the repeal of the latter part of the clause.

The case cited by the Attorney-General, of an officer of the Otago Government, seems to me to be wholly irrelevant. No officer of the Nelson Provincial Government, or of the General Government, made use of any official information, or joined in these purchases upon any other information, or upon any other footing, than the general public who purchased at the same time.

I have now to point out to the Government that the circular they have issued appears, unfortunately, to have been interpreted by the miners to mean that they are authorized, by their miners' rights, to enter upon any man's private property in order to mine for gold; and that it is most desirable in the public interests, and I may say for the preservation of law and order, that this impression, which has so erroneously, but I venture to think not unreasonably, obtained, should be at once and authoritatively removed.

In the particular case which has given rise to this correspondence, the development of what there seems to be good reason to believe will prove to be a source of wealth and prosperity, not only to the Province of Nelson but to the whole Colony, is indefinitely retarded. And as regards individual rights and interests, it is not the discoverers themselves, and those who availed themselves of the discovery, who are alone concerned. In the one case a company has been formed, shares in which are held by a large number of the people of the town of Nelson, and in the others a considerable number of persons are associated with the original purchasers in the proposed enterprises, which are only deferred pending the removal of the complications which have so unhappily arisen.

I have the fullest confidence that the Government will do all in their power to remove the existing misapprehension on the part of the miners, and to promote the speedy development of what will, I am convinced, prove to be a mining district of a value unsurpassed in any part of the Colony.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,

OSWALD CURTIS.

### No. 8.

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

Colonial Secretary's Office,

Wellington, 20th November, 1869.

SIR,—

I have the honor to acknowledge the receipt of your letter of the 19th instant, in which you combat some of the positions taken up by the Attorney-General in his minute of which I had supplied you with a copy. I have consulted that gentleman on your remarks, and now enclose a note of his observations upon them.

As, however, the Government is desirous of relieving the Provincial Government of Nelson, and the Land Board, as far as possible, from the difficulties in which they have involved themselves in reference to this matter, it is not necessary to continue the discussion of the abstract rights of the Crown or of individuals.

The reason which the Government had for issuing the notice asserting the right of the Crown was to prevent the interests of the mining population from being sacrificed by a valuable gold field passing into private hands.

It is now understood that, by reason of dealings with the sold lands and other circumstances, the assertion of the right of the Crown will not ensure a satisfactory result; and that it is better at once to declare that, as regards the auriferous lands already sold, no further steps will be taken to prevent either the original or derivative purchasers from mining in them for gold. No further sales ought, in the opinion of the Government, to be allowed in the district; and it ought immediately to be proclaimed a gold field, including or excluding the sold lands, as the Waste Lands Board may be advised.

The Government will therefore immediately issue a notice in the *Gazette*, a copy of which is annexed.

The result of this will be to leave all persons to the exercise of whatever rights they may have acquired by the sales of the 13th ultimo; and it will rest with those persons and with the Provincial Government to maintain those rights, whatever they may be. It is to be hoped that this course will prevent any attempt on the part of others to enter, without lawful authority, on the sold lands—a course which it is quite clear is altogether illegal, and in no way justified by the mere holding of a miner's right.

His Honor the Superintendent, Nelson.

I have, &c.,

W. GISBORNE.

### Enclosure 1 in No. 8.

Observations of the ATTORNEY-GENERAL.

November 19, 1869.

I do not think it will be found that in England the practice has been to grant the right to mine for gold or silver on payment of a royalty. It need hardly be remarked that with regard to gold, we have no knowledge that a gold mine has ever been discovered in England, and only in one or two localities, to an extent altogether insignificant, in Scotland and Wales. Silver, it is believed, has been worked in England, and there are various instances in which silver mines have been worked as Royal mines. Some few pounds weight of gold may have been obtained of late in the lead mines. I therefore think that the Superintendent cannot have grounds for believing that as to gold and silver there is such a "practice" in England of granting the right to mine for gold and silver as may be followed advantageously in this country.

In the Colonies, no doubt, a revenue has been obtained, as here, by a duty on the export of gold, and the Crown has, under Acts of the Legislature, freely granted permission to mine for gold on

payment of a trifling license fee; the fact of which payment recognises the right of the Crown to the gold. It should be observed that, in reference to the Australian gold fields, the rights of the Crown were expressly waived by the Secretary of State for the Colonies, several years ago, in favour of the Colony; but this has never yet been expressly done in respect of New Zealand. Whatever the prerogative right of the Crown was originally, it in practice still remains; and, at all events, if the Crown has in any way waived its prerogative right, it is vested in the Colonial Government.

But there is little use in discussing what the Crown does ordinarily when considering what the Crown can do and ought to do in what is believed to be an exceptional case. It was believed, I suppose, that in this case there were circumstances which the Colonial Government thought might require that the prerogative should be used to its fullest extent. Surely if it had found out that such circumstances did exist, the mere fact that ordinarily the Crown did not exercise the prerogative affords no reason for its not exercising it in the particular case. It was never intended that the Crown should, in all cases of sales of land, assert this right, but only in these particular sales, the reason being, I presume, that the gold was known to be in the land when sold; not, as ordinarily happens, the discovery was made after the sale.

The members of the Waste Lands Board credited the applicant's statement that the land was auriferous; they were prepared to grant him a lease, as auriferous, if he had wished it; but the Commissioner pointed out to him that before a lease could be granted, the land must be put up to auction at a high upset price. I do not think that the Superintendent can seriously contend that the man's statement was not fully believed.

The Superintendent forgets the ample powers given by the Nelson Waste Lands Act for the purpose of preventing the acquisition by private individuals of land, such as auriferous land, which ought always to be in the hands of the Government. The application for purchase did not prevent the withdrawal of the land, or the reservation of it for a gold field, even after application (see section 9 of "The Nelson Gold Fields Act, 1863\*"); a section which distinguishes this case from that referred to by the Superintendent as occurring at Collingwood before the Nelson Waste Lands Act was passed.

According to the Superintendent's construction of the law, there is nothing to prevent some wealthy speculator putting in an application for a district, however large, and, though believed to be auriferous, yet if it has not been withdrawn from sale before the application the land must go, the speculator employs such men as he chooses, and works the mine how he chooses and when he chooses, and all this may be without payment of any license fees.

I have no hesitation in saying that "The Nelson Waste Lands Act, 1863," clearly indicates that it is the duty of the Board not to sell auriferous land under any circumstances as rural land.

The interpretation which it is said the miners have put on the notice issued is without foundation and without reason. It has never been pretended that a miner's right gives any rights or privileges, even over Crown Lands, outside a gold field; how then can it be said that a person holding a miner's right can, by virtue of such a right, enter on what is called private land outside a gold field? I cannot conceive that these persons pretend that they have a legal right to mine on this land by virtue of their miners' rights, but on the contrary I believe it will be found that they are taking this course rather as a protest against what they conceive to be an illegal disposition of the land. They probably see with alarm that, for the first time in New Zealand, Crown lands known to be auriferous are being sold to speculators, instead of being thrown open to the public under the laws regulating mining for gold. The notice, instead of being capable of being construed by the holders of miners' rights as a recognition of any right in them, can only be construed as a warning that the Crown itself asserts the right to mine for gold. If the land were within a gold field, there might be some ground for the interpretation which it is alleged these miners put on the notice; because, by law, gold miners cannot mine on private lands within gold fields without consent of the owner; and the notice might, under such circumstances, have been construed as a declaration that the Crown would assume the right to authorise mining, notwithstanding the sale. It is, however, not necessary to consider the matter from this point of view, since the land was not, and is not, within a gold field.

If the Board thinks fit, it has power, even now, to reserve the land for a gold field, and the Superintendent may proclaim it a gold field; or if the Board is advised that the sale can be legally effected, and that it is considered expedient that it should be, it may proceed to complete it, and the persons now illegally in possession may be proceeded against by the Commissioner of Crown Lands, under "The Crown Lands Act, 1862."

JAMES PRENDERGAST.

## Enclosure 2 in No. 8.

### NOTICE FOR THE GAZETTE.

THE Government having received information from the Superintendent and Commissioner of Waste Lands, at Nelson, on the subject of the sale of certain sections of land at Wangapeka, in the Province of Nelson, does not now consider it on the whole conducive to the public interest to enforce the right of the Crown to the gold in such lands; and the circular letter issued in respect of the same on the 1st instant is hereby cancelled, as regards its application to the said lands.

Wellington, November 20, 1869.

W. GISBORNE.

\* By error for the Nelson Waste Lands Act.

## 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

purchase without previous application, as provided by the thirty-second and thirty-fifth sections, under the latter of which the sales in question were made.

The Attorney-General is quite right in saying that, according to the Superintendent's view of the law, there is nothing to prevent a wealthy speculator from buying up a district however large, and dealing with it as he thinks proper—provided, of course, that the land is not included in any gold field, has not been classed by the Waste Lands Board as town, suburban, or mineral land, and is legally open for sale as rural land, and is paid for at the rate of £2 per acre. So far as I am concerned, as representing the interests of this Province, I shall not be sorry to see a wealthy speculator invest in a hundred thousand acres or so, with these restrictions and upon these terms, to-morrow.

The paragraph of the Attorney-General's minute, in which he says that the Act of 1863 clearly indicates that it is the duty of the Board not to sell auriferous land under any circumstances as rural land, may, I think, be passed over as merely a further instance of that play upon words in the use of the term "auriferous," to which I have already referred.

The Attorney-General proceeds in his next paragraph to say that certain persons "probably see with alarm that, for the first time in New Zealand, Crown lands known to be auriferous are being sold to speculators, instead of being thrown open to the public under the laws regulating mining for gold."

I cannot help characterizing this paragraph as singularly disingenuous. The Attorney-General was perfectly aware when he wrote it that immediately upon its coming to the knowledge of the Waste Lands Board that there was reason to believe that the district of Wangapeka was payably auriferous—and although the reason for that belief rested solely upon the unconfirmed testimony of a single unknown miner—the whole of the land in that district was withdrawn from sale without an hour's delay. Even had the Board thought proper to defer taking that step until they had sent some person upon whom they could rely to examine the ground, they could scarcely have been blameable for over caution.

And as to its being "the first time in New Zealand," the Attorney-General can surely not have forgotten a recent case in the Province of Canterbury, when a very much larger quantity of land, reported upon much better authority than in the Wangapeka case to be payably auriferous, was sold to a comparatively few purchasers.

The case at Collingwood, which I mentioned in my last letter, is another instance within the knowledge of the Attorney-General, and I believe that on inquiry many similar ones might be quoted. Whether the payably auriferous character of the lands so sold has subsequently been established is a matter of indifference; in the case of Wangapeka, at all events, that question is still in abeyance.

The Attorney-General concludes his Memorandum with the astounding assertion that the Board may "even now reserve the land for a gold field"—an assertion which, if the Attorney-General means the 130 acres sold (and as the whole of the land in the district, with that small exception, has long ago been so reserved he can mean nothing else), appears to me to require no comment.

I laid your telegram of the 24th instant, the receipt of which I have already acknowledged, before the Waste Lands Board, and I enclose for your information a copy of a resolution passed by that body in reference to it.

I have expressed myself with much more freedom upon the Minute of the Attorney-General than I should otherwise have done, because I think its general tenor is obviously rather of a political than of a legal character.

I have, &c.,

OSWALD CURTIS.

The Hon. the Colonial Secretary, Wellington.

#### Enclosure in No. 10.

Copy of a Minute of the WASTE LANDS BOARD, passed at a Meeting held on Thursday, the 25th November, 1869.

THE Board, having taken into consideration a telegram, dated the 24th instant, addressed by the Colonial Secretary to the Superintendent, resolves unanimously:—

"That it is the duty of the Waste Lands Board to deal with the waste lands of the Crown according to law, and they do not recognize any right on the part of the Colonial Secretary to interfere with their action.

"The Board has throughout taken every precaution which the law allows to prevent the sale of land supposed to be auriferous to a payable extent; but as there is scarcely a district in the Province in which gold has not been found in larger or smaller quantity, it would be impossible for the Board to prevent the possibility or even the probability of the purchase of auriferous land under the thirty-second and the thirty-fifth sections of 'The Waste Lands Act, 1863,' without withdrawing every acre of the waste lands of the Province from sale or lease, and thereby injuriously suspending the settlement of the country."

#### No. 11.

Copy of Telegram from the COMMISSIONER of CROWN LANDS, Nelson, to the Hon. W. GISBORNE. 25th November, 1869.

As desirous of complying with your telegram of yesterday's date, will you inform me whether, in case of a prospector coming to purchase under thirty-second or thirty-fifth sections of "Waste Lands Act, 1863," the Government can authorize Commissioner to refuse sale, and engage to relieve him from possible legal consequences.

H. C. DANIELL,  
Commissioner of Crown Lands.

The Colonial Secretary, Wellington.

## No. 12.

Copy of Telegram from the Hon. W. GISBORNE to the COMMISSIONER of CROWN LANDS, Nelson.  
26th November, 1869.

Show Attorney-General correspondence about auriferous land, and your telegram, and he will give you his opinion on point raised in yours of yesterday.

The Commissioner of Crown Lands, Nelson.

W. GISBORNE.

## No. 13.

Copy of a Letter from the COMMISSIONER of CROWN LANDS to the Hon. W. GISBORNE.  
Sir,— Crown Lands Office, Nelson, 27th November, 1869.

In accordance with your telegram of the 26th instant, I communicated with the Attorney-General respecting the question proposed in mine of the 25th, and have now the honor, at his request, to repeat the question in writing, in order to its being formally laid before him, as follows:—

“As desirous of complying with the caution contained in your telegram of yesterday’s date, will you inform me whether, in case of a prospector or explorer finding auriferous land, and in order to secure himself, should demand to purchase under the thirty-second or thirty-fifth sections of “The Nelson Waste Lands Act, 1863,” the Government can authorize me, as Commissioner, to refuse to sell, and engage to relieve me from any possible legal consequences of such refusal.”

I have, &c.,

H. C. DANIELL,

Commissioner.

W. Gisborne, Esq., Colonial Secretary, Wellington.

## No. 14.

Copy of a Letter from the Hon. W. GISBORNE to the COMMISSIONER of CROWN LANDS, Nelson.  
Colonial Secretary’s Office,

Sir,—

Wellington, 6th December, 1869.

I have the honor to acknowledge the receipt of your letter of the 27th ultimo, in which you refer to the caution to Commissioners of Crown Lands and Waste Lands Boards against the sale of auriferous lands, and the infringement thereby of the public interests, and request to be informed whether, in case of application for the purchase of such land under the thirty-second or thirty-fifth section of “The Nelson Waste Lands Act, 1863,” the Government authorizes you to refuse to sell, and engages to relieve you from any possible legal consequences of such refusal.

I quite recognize the propriety of your request, and am anxious to give you every information which may remove any misunderstanding on this subject. The Government cannot of course authorize any officer to commit an illegal act, and has no wish to dictate to those who administer the land regulations its own view of their duty in any case in which the law leaves to them the exercise of a discretion. It must, however, be borne in mind, that the Crown, which grants the land, has a duty to perform as well as those who conduct its sale, and, if it believes that the alienation (in fee simple) of auriferous land is likely to inflict public injury, its duty is to warn those who sell and those who buy such land, that a Crown Grant does not divest the Crown of the right to the gold in that land, and that the Crown reserves to itself the enforcement of its rights in case the public interest should appear to it to demand that enforcement.

In the Province of Nelson, if application is made for the purchase, as ordinary rural land, of land known, or believed at the time of application, to be auriferous land, the Commissioner of Crown Lands and Waste Lands Boards can exercise those powers which the law has conferred upon them, and either reserve such land under section 9 of “The Nelson Waste Lands Act, 1863,” or, in their discretion, offer it under section 70 for sale at public auction, at an upset price, assessed by the Board, of not less than £10 per acre; or, if offered for sale and not sold at auction, offer the same for lease at a rent of 10 per cent. on the assessed value. As the neglect to exercise such powers may, in certain cases, be productive not only of loss to the revenue, but may also occasion public discontent and social disorder, the object of the caution is to urge Commissioners and Waste Lands Boards not to neglect the exercise of their powers, and also to draw their special attention to the evils which may result from that neglect.

In the event of any such application for the purchase of auriferous land coming before you, it would be your duty to inform the Governor’s delegate under the Gold Fields Acts of the application, and also call upon the Board to consider the question of reserving the land under section 9, or dealing with it under section 70 of the Nelson Waste Lands Act. Should the Board not see fit to do either, and should the delegate not include the land within a gold field, then, though you could not refuse to, and should properly proceed with the sale, the Government would still have the power of claiming the gold, and would probably exercise that power, especially if it appeared that the purchaser had bought as rural land, land which he knew or believed to be auriferous. I do not say that the Crown would necessarily take this view, but it is probable that it would do so; at any rate it is competent to it to do so; and such a power is a salutary check both upon purchasers of Crown lands, and the administrators of the law regulating land sales.

In cases in which land has been in good faith bought as rural land, and afterwards is discovered to be auriferous, the question whether the Crown would be advised to assert its right must be determined by special circumstances in each case. The Crown has never yet asserted that right in this Colony, though I believe there are many instances in which the purchasers of Crown lands have themselves mined, or authorized others to mine, for gold therein. In none, however, of the British Colonies, so far as I have been able to ascertain, has the Crown given up its rights.

The Commissioner of Crown Lands, Nelson.

I have, &c.,

W. GISBORNE.

## No. 15.

Copy of Telegram from the SUPERINTENDENT, Nelson, to the Hon. W. GISBORNE.  
Nelson, 9th December, 1869.

I THINK it most desirable that Government should authorize official inquiry into matter of petition respecting Wangapeka land sales.

I suggest, to avoid delay, that Mr. Domett might be instructed by telegram.

The Colonial Secretary, Wellington.

OSWALD CURTIS,  
Superintendent.

## No. 16.

Copy of Telegram from the Hon. W. GISBORNE to the SUPERINTENDENT, Nelson.  
Wellington, 9th December, 1869.

I DID some days ago refer petition respecting Wangapeka land sales to Mr. Domett for official inquiry, and I understand he is now making that inquiry, but I will repeat instructions by telegraph.

His Honor the Superintendent, Nelson.

GISBORNE.

## No. 17.

Copy of Telegram from the SUPERINTENDENT, Nelson, to the Hon. W. GISBORNE.  
Nelson, 9th December, 1869.

I FORWARD correspondence respecting attempted survey of purchased land at Wangapeka, survey being indispensable to ascertain position of disputed land before proclaiming district a gold field.

I refer you to Judge Richmond's charge to Grand Jury, in *Nelson Examiner*, 2nd July, 1868, and I request early reply as to course Government will take or recommend.

The Colonial Secretary, Wellington.

OSWALD CURTIS,  
Superintendent.

## Enclosure 1 in No. 17.

Copy of a Letter from C. BROAD, Esq., to the SUPERINTENDENT, Nelson.

SIR,—

Blue Creek, Wangapeka, Saturday.

I have the honor to report to you, that on my arrival here this morning I put myself in communication with the miners; a committee of thirteen had been appointed to meet me, and behind them were the miners. I succeeded in convincing them with reference to Mount Owen, but no persuasions or threats will induce them to allow the survey. Since my last visit they have been reinforced by some of the West Coast men, and also by some from the Karamea. The former have some very bad characters amongst them. I told them I should proceed to survey on Monday morning, and they told me they would prevent it. The recent arrivals have complicated matters. There are over 100 men in the crowd, some armed. The Superintendent was burnt in effigy this afternoon. If the Government insist upon the survey, we shall want a very strong armed force.

They will not allow any one to pass Blue Creek, and are in a state of utter lawlessness, although they deprecated any physical force to myself. I am convinced that there is a sufficient turbulent element amongst them to lead them on to anything.

Of course there is no reasoning with men who are determined to withstand all authority. I shall, of course, as a matter of form, go on Monday morning with the surveyors, and, if prevented, await the arrival of your instructions.

In the mean time, would it not be better to proclaim the gold field, and let the land purchasers fight it out in the Court with trespassers? I think this would allay all angry feeling, and avoid a collision, which must result in bloodshed. In the event of this being done, Culliford's should be gazetted a separate claim. Since the last visit, all north of Nuggety Creek is pegged out, and you will therefore see that the miners do not think the vacant ground between Blue and Nuggety Creeks meets their wants.

At the same time, I am certain that many are here just for the purpose of having a row, and don't care a rap for the claims. In haste,

His Honor the Superintendent, Nelson.

I have, &c.,

CHARLES BROAD.

## Enclosure 2 in No. 17.

Copy of a Letter from the PROVINCIAL SECRETARY, Nelson, to C. BROAD, Esq.

SIR,—

Superintendent's Office, Nelson, 5th December, 1869.

I have to acknowledge the receipt of your letter of yesterday's date, and in reply I am directed to request that, in the event of the survey being forcibly prevented, you will try and arrest one or two of the most prominent persons offering resistance, such attempt to be made without resort to violence. Should the arrest be prevented by force, you will at once report to this office, and wait further instructions.

I have, &c.,

C. Broad, Esq., R.M., Wangapeka.

ALFRED GREENFIELD,  
Provincial Secretary.

## Enclosure 3 in No. 17.

Copy of a Letter from C. BROAD, Esq., to the SUPERINTENDENT, Nelson.

SIR,—

Blue Creek, Whangapeka, Tuesday.

I have the honor to resume a narrative of the occurrences here since the date of my despatch of Saturday last. On Sunday morning I met the Committee, and, with a view to the settlement peaceably of the difficulty, after some two hours' conversation, I made the propositions embodied in the document appended, marked A., without prejudice, and reserving to myself the right to withdraw it in the event of its not being acceded to. The Committee requested until Monday to communicate with the main body, when I again met them at 9 o'clock, and received their final determination in the document marked B., attached.

I then withdrew the document (A.) I had given them, and then, returning to the camp, directed the surveyors to proceed. On reaching Blue Creek, the Committee—some thirteen—joined hand in hand, and would not allow them to proceed, one "Noble" putting up his hand and pushing Knyvett back. They had the main body of miners in a compact mass behind them; and finding the attempt useless returned to camp. I took Mr. Lewis' information, and have issued a warrant for the apprehension of the Committee, who were the ringleaders. In the afternoon, Constable Levy returned [from Nelson], having accomplished his mission with commendable celerity; and this morning Sergeant-Major Edwards and Constable Shaw also arrived. They are now endeavouring to effect the arrest of Noble, and I shall keep this letter open to communicate the result. In the meantime I must state, that the *Colonist*, of Friday, arrived here on Saturday, and the leader has done a great deal of harm in unsettling the men's minds again as to the position of Mount Owen; and they now say they must have the answer of the General Government to their petition before being satisfied on that point. Although I feel convinced the answer will not finally settle the question, it will go a long way (if they hear from the authority of the General Government that the place is not in the gold field) to detach a number from the present compact and united body. It is no good to blink the question; the men are in an utter state of rebellion to all authority, and will not allow anything to turn them from their fixed purpose. They are in daily expectations of reinforcements from the coast, and are menacing in their aspect. A large number are armed, and Sergeant Edwards informs me that some of the Wakefield Volunteers are on the ground with their minie rifles. One fellow said publicly, if he had his way he would treat us all to a dose of lead pills. I have exhausted every argument; but argument is entirely thrown away. They would rather have a row than be disappointed. It would be necessary, if the Government are resolved to force the survey, to get at least 100 of the Armed Constabulary. The men are resolved to place themselves in antagonism to the Government; and I warned the Committee that the Government would hold them responsible for any consequences that might ensue in endeavouring to uphold the law. They said they did not care for consequences. The names of Committee as at present ascertained are: Lever (spokesman), P. C. Gowland (secretary), Caldwell, Everett, Keener, Burke, Noble (W. C. Irishman), Baigent, Watson, McKinnon, D. Martin, and a man named Owen.

The police have just returned, having been unable to effect an arrest. The Committee at first offered to give themselves up, if I would guarantee the survey should not go on until they returned from Nelson. Of course I could give no such guarantee; but when the sergeant went back the mob had collected, the other members of the Committee stood in front of Noble and the mob behind; and on the constables endeavouring to get through to Noble, they were forcibly pushed back, and found the attempt useless. I shall be anxious to hear at the earliest moment the final intentions of the Government, as to whether the Government resolve to enforce the survey or not. It useless to argue with men who will not be convinced but that the purchasers have shifted their applications north of Nuggety.

It will be better in the present state of affairs to retain the police, until the question is settled. I shall walk to Chandler's this afternoon, and await your reply.

I have, &amp;c.,

CHARLES BROAD,  
Resident Magistrate.

His Honor the Superintendent, Nelson.

A man has just been to say that they are all determined to resist to the death, and that they are perfectly prepared for bloodshed.

## Sub-Enclosure 1 in No. 17.

1. Survey to be proceeded with.
2. Miners to be allowed to work in the ground purchased, leaving the purchasers to their remedy in a Court of law.
3. Culliford's claim purchased to be protected, as being equal to the amount of ground he could have held as a mining lease.
4. The clauses under the Gold Fields Act relative to mining on private property not to be enforced by the Warden.
5. Miners who have marked out ground to take it in rotation along the course of reef from boundary of Culliford's claim.

CHARLES BROAD, R.M.,  
Warden.

## Sub-Enclosure 2 in No. 17.

That the miners do not recognise the purchased land, therefore a survey is not necessary; and nothing less than the authorities acknowledging us in peaceable possession of our claims will do us.

By order of the Committee on behalf of the miners,

PETER C. GOWLAND,  
Secretary.



## No. 18.

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

Wellington, December 10, 1869.

GOVERNMENT have considered your telegram of yesterday, with correspondence relative to opposed survey of land at Wangapeka. At present Government cannot form an opinion whether land in question is within or without a gold field; if within gold field, miners having miner's rights have a legal right to the claims they have taken up, the sale being in that case invalid; if not within gold field, the miners have no such right. Mr. Domett will be requested to report to Government on the subject, and Government think that, until he has reported, matters should be left as they are. The survey should not be proceeded with, and the land not proclaimed a gold field. Please inform Waste Lands Board and Mr. Broad to this effect, and give copies of correspondence, whether telegraphic or otherwise, to Mr. Domett.

GISBORNE.

His Honor the Superintendent, Nelson.

## No. 19.

Copy of Telegram from the Hon. W. GISBORNE to the SECRETARY for CROWN LANDS, Nelson.

Wellington, 10th December 1869.

I ANNEX copy of a telegram written by me this day to Superintendent of Nelson about opposed survey of land at Wangapeka. Obtain from Superintendent other correspondence on same subject. Government wish you to proceed at once to Wangapeka, and to inquire into and report to General Government on whole matter. In the meantime the survey should not be proceeded with, and the land not proclaimed a gold field. Inform Commissioner of Crown Lands accordingly. Use every effort to prevent breach of peace, and to induce all parties to have dispute quietly settled.

GISBORNE.

## No. 20.

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

Colonial Secretary's Office,

Wellington, December 14, 1869.

SIR,—

I have to acknowledge the receipt, on the 12th instant, of your Honor's letter, No. 69, of the 30th ultimo, in which you discuss and animadvert on the opinion, communicated to you in my letter of the 20th ultimo, of the Attorney-General, relative to the sale of auriferous land at Wangapeka.

I do not think that it will tend to any useful result to pursue a controversy between the Attorney-General and yourself on points of law, and I have not, therefore, deemed it necessary to call on that officer to defend his opinions, and to vindicate his knowledge of his profession. I cannot, however, pass unnoticed your Honor's remark—given at the close of your letter, as a reason for your free expression of opinion on the minute of the Attorney-General—that you “think its general tenor is obviously rather of a political than of a legal character.” Such an imputation—preceded, I must add, by remarks not characterized by your usual courtesy—is unjust. The Attorney-General is the permanent Law Officer of the Crown, appointed apart from all political considerations, under the special sanction of the Legislature. He has earned the confidence of successive Administrations, and I think that your Honor, on reconsideration, will admit that such a reflection on him is not warranted.

Upon the actual merits of the question at issue, further discussion seems also unnecessary. A brief recapitulation of the main facts is, I think, sufficient to place the matter in a clear light, and to justify the action of the Colonial Government.

On the morning of the 13th October last (I quote in substance from the report of the Commissioner of Crown Lands at Nelson), the Provincial Secretary stated to the Commissioner that a gold miner had brought to the Provincial Secretary's Office specimens of gold-bearing quartz, said to have been taken from a reef at Wangapeka, and over part of which that miner desired to obtain a gold-mining lease, or some other document which would at once protect his discovery. Instead of steps being at once taken to protect the public interest by the immediate withdrawal of the land from private sale as rural land, and by submitting it (as provided for by the Regulations) to public auction as auriferous land, or by proclaiming it as a gold field (a number of miners having already congregated there), or even by ascertaining, what was a doubtful point, whether it was not already within a gold field, a discussion actually seems to have taken place in the Land Office how to meet “the necessities” of the present “case,” or, in other words, the wishes of an individual. The applicant was referred to the thirty-fifth section (enabling purchase at once to be made) of the Lands Act, and he at first hesitated to avail himself of that section, but at last was induced to adopt that course. No steps were taken on that day to summon a Waste Lands Board to withdraw the land in the district from sale, and it was only at half-past eleven on the following morning that the Board met and the withdrawal was effected. In the meantime, a number of persons, several of whom were Government officers, applied for and purchased under the thirty-fifth section, land adjoining the piece purchased by the first applicant. When these circumstances were brought to the notice of the Colonial Government, they took steps at once to protect the public interests by notifying that precious metals do not pass by a sale of the Crown lands containing them, and that it was their intention to cause the law in that particular to be enforced. Upon your Honor's urgent representation, that enforcement was waived in respect of the Wangapeka sales, but a general caution was given to those who administer the regulations for the disposal of Crown land, with a view to preventing the recurrence of such impolitic and perilous transactions. The next event is the most recent opposition by miners to the survey of the purchased land, in the belief that the land is included within a gold field, and the sales consequently invalid. Your

Honor thereupon, at once, and properly so, appealed to the Colonial Government to interpose and to prevent a public disturbance, likely to result from the act of the Land Board, and the Government are now endeavouring to adjust this dispute, and hope, with your Honor's co-operation, to be successful.

The resolution of the Waste Lands Board, which you enclose, requires little notice, as I have already, in a letter to the Commissioner of Crown Lands at Nelson, a copy of which I forwarded to you on the 7th instant, explained on what grounds it was the duty of the Government to act as they did in this matter. Had this action, resented by the Board as interference, been met by them in a proper spirit, the serious difficulties which at present exist, and in which the aid of the Colonial Government is now readily sought, would probably not have occurred. In attempting to trace those difficulties, as you do, to the action of the Colonial Government in notifying the rights of the Crown, your Honor stops short of the fundamental cause which compelled this Government to give that notice—namely, the want of proper caution and promptitude exhibited by the Land Board, of which the Superintendent is a member. I conceive it to be my duty to state the impression of the Government, that if reasonable alacrity had been exercised by the Board, such as a man of business would have exhibited in protecting his private rights, the present complication might have been altogether avoided. Such a course was the more incumbent on the Board, as in all the Nelson newspapers, more than a month previously, attention had been directed to rich specimens of gold-bearing quartz from Wangapeka, which had been brought to Nelson, and some of which were stated to have been shown to your Honor.

But, in fact, the course adopted by the miners is in no way attributable, as your Honor asserts, to any proceeding of the Colonial Government in respect of these lands. The first step which the Government took in the matter was to ask for information, and that step was taken on the 25th of October, and the circular to Commissioners of Crown Lands, and the notice, were dated subsequently. It appears from Mr. Burnett's official report, dated 23rd October, addressed to your Honor, and published in *Provincial Gazette* of the 25th of that month, that complications had already occurred between the purchasers of land supposed to contain this quartz reef and the men who have actually pegged off claims on the ground, and it is stated in the public press at Nelson, of the same date, that there were 142 miners on the ground, in addition to 60 on the road; that those on the ground had pegged off their claims, that they had stopped Mr. Sinclair's survey of the land purchased, that they had protested against the purchase, and expressed their determination not to recognise it, and that a deputation from them had informed the Provincial Government at Nelson to that effect.

I have, &c.,

His Honor the Superintendent, Nelson.

W. GISBORNE.

#### No. 21.

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

Superintendent's Office,

Nelson, 21st December, 1869.

SIR,—

I have the honor to acknowledge the receipt of your letter of the 14th instant, in further reference to the late purchase of 130 acres of rural land at Wangapeka, in consequence of a statement by a miner that a gold-bearing quartz reef had been discovered upon it—a statement which Mr. Burnett's subsequent visit proved to be well founded.

I have no wish to pursue the controversy upon this matter with the Attorney-General, especially as I think it has gone far enough to establish all that I have contended for, namely, that these sales were unavoidable in the present state of the law, and that the utmost promptitude was shown by the Waste Lands Board in putting a stop to them, by the withdrawal of the land from sale. I do not feel surprised that you have not deemed it necessary to call upon that officer to defend his opinions, and to vindicate his knowledge of his profession. I should have thought that the acknowledged high standing of the Attorney-General in that profession would have made this remark unnecessary, and still more so the observations by which it is followed.

The two memoranda of the Attorney-General upon this subject with which you had furnished me were by no means confined to legal questions, but dealt freely with political questions, such as the purchase of supposed auriferous land by officers of Provincial Governments, the policy of the sale of Crown lands by what is commonly called "free selection," the policy of the sale of auriferous land, and more especially the policy pursued by the Waste Lands Board in the exercise of its discretionary powers. This being the case, I felt justified, as I said, in commenting much more freely upon these memoranda than I should have done had they dealt only with legal questions; and my high respect for the Attorney-General causes me to read with regret your indignant vindication of that gentleman, which I am sure the profession and the public, as well as myself, will consider to be entirely superfluous.

From your recapitulation of the main facts, the construction you put upon them, and the opinion you express upon the action of the Waste Lands Board and of myself, I gather that the view of the General Government of the mode in which the waste lands of the Crown should be administered in such circumstances is pretty much as follows:—When a miner or other explorer, thinking he has made a discovery of value, and wishing to avail himself of it in the way the law provides, confides the facts to the Provincial Government, in reliance upon their good faith, he should be kept in the dark, if not misled, as to the law, in order to deprive him of the benefit which he would hope to derive from his energy and enterprise, so that the public interests might be protected by selling the land by auction, as you propose, to the highest bidder—the land becoming freehold in either case, and no longer open to the holder of a miner's right.

The Provincial Treasury might be benefited in this way, but not, I think, the public interests.

The alternative course you propose, it seems to me, would have been still more objectionable—that of proclaiming the district a gold field, without any better or more reliable information than that

of a single miner, wholly unknown to me, corroborated by specimens which might have been brought from any part of this or any other Colony.

Statements of the same kind, accompanied by specimens of quartz containing gold—in one case, at least, much richer than those exhibited by Culliford—said to have been taken from quartz reefs in various parts of the Province open to sale under the Waste Lands Act, but known to be more or less auriferous, have, on several occasions, been made to me by miners and others; but these statements had hitherto proved, on inquiry, to be exaggerated, or without foundation.

Had I accepted them as authentic, without inquiry, as you suggest that I might have done on the late occasion, and acted upon them by proclaiming the districts named to be gold fields, I should have been justly blamed for the disappointment, the loss, and the suffering which would have been occasioned by the consequent rush of miners to the spot.

A Warden upon an established gold field feels it to be his duty not to grant even a prospector's claim, until the alleged discovery has been verified by himself or by a mining surveyor—a precaution by which the ill-consequences of giving official sanction to mischievous or over-sanguine representations are avoided.

On referring to Mr. Daniell's report, you will see that you are mistaken in saying that "no steps were taken on that day to summon a Waste Lands Board." Culliford's purchase of sixteen acres was made about 1 o'clock on the 13th October, and those steps were taken within an hour afterwards; and the Board met at half-past 10 (not half-past 11) on the next morning, and by half-past 11 a Provincial *Gazette* containing the notice of the withdrawal of all the land in the district from sale, was printed and issued.

Looking to the fact that the third member of the Board resides at a distance of nine miles from town, I am justified in saying, as I have in the preceding paragraph, that "the utmost promptitude" was exhibited by the Board; and in adding the expression of my opinion that your remarks, written in the light of subsequent events, about "want of proper caution and promptitude," and of "reasonable alacrity" on the part of the Board, are wholly inapplicable to the circumstances.

I am unable to understand your observations upon the resolution of the Waste Lands Board, a copy of which was contained in my last letter. I quite fail to see how that resolution can have either increased or diminished the existing difficulties; still less how it can, as you seem to intimate, have originated them.

I have, however, to observe, that while I am sure the Board will at all times gladly receive suggestions or advice from the General Government, and will consider such suggestions with every respect and attention, and with every desire to meet the views of the Government, I do not think they could be justified in so far forfeiting their right to independent action, as to receive, without protest, a notice expressing those views in the form of a direction, and not couched in terms of ordinary courtesy.

I much regret that you should conceive that I have attempted to trace these serious difficulties to the action of the General Government in notifying the rights of the Crown; and I am unable to find any passages in this correspondence calculated to give rise to that impression on your part, although I have been, as still I am, of opinion that that action did tend to increase the serious character of those difficulties; and I repudiated your view of the effect of the withdrawal of that action as doing more than undoing (so far as possible) what had been done by the General Government, and as tending to relieve the Provincial Government and the Waste Lands Boards from that measure of difficulty which existed previously to the issue of the notice.

I believe that these unfortunate complications may most fairly be traced, not to the action of the General or of the Provincial Government, nor to that of the Waste Lands Board, but to the existing state of the law relating to the sale and disposal of the waste lands of the Crown, combined with the imperfect exploration and the total absence of survey of a considerable part of this province.

I have only to add, that the Government may rely upon my earnest and cordial co-operation in their endeavours to put an end to the present most unsatisfactory state of this matter, which I trust the inquiry now pending under Mr. Domett will materially tend to effect.

I have, &c.,

OSWALD CURTIS,

Superintendent.

The Colonial Secretary, Wellington.

#### No. 22.

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

Colonial Secretary's Office,

Wellington, 10th January, 1870.

SIR,—

I have to acknowledge the receipt of your Honor's letter of the 21st ultimo, and to thank you for the promise—contained in the last paragraph—of your Honor's earnest and cordial co-operation with the General Government in their endeavour to effect the settlement of the Wangapeka dispute.

I have, &c.,

W. GISBORNE.

His Honor the Superintendent, Nelson.

#### No. 23.

Copy of Petition of MINERS and INHABITANTS of WANGAPEKA for an Inquiry into the Wangapeka Land Sales.

To His Excellency Sir George Ferguson Bowen, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of New Zealand and its Dependencies, and Vice-Admiral of the same.

*The humble Petition of the undersigned Miners and Inhabitants of Wangapeka, Waimea South, and other Districts within the Province of Nelson, and Colony of New Zealand.*

SHOWETH,—

That at the sittings of the Provincial Council for the Province of Nelson, aforesaid, in the month of May, one thousand eight hundred and sixty-one, the sum of £100 was voted as a bonus to any person or persons who should discover a payable gold field in the District of Wangapeka aforesaid.

That such payable gold field within the District of Wangapeka aforesaid was discovered by William Griffiths, Henry Pilkington, Levi James, and James Sharp.

That the said William Griffiths, Henry Pilkington, Levi James, and James Sharp claimed the said bonus, and in the month of July, one thousand eight hundred and sixty-two, the Provincial Treasurer of the Province of Nelson, by order of the then Superintendent of the Province of Nelson, paid to the said William Griffiths, Henry Pilkington, Levi James, and James Sharp, the said bonus of £100, in equal proportions of £25 to each man.

That many miners have since then, and up to the present time, subsisted by gold-mining operations within the said district.

That by Proclamation issued under the hand of Oswald Curtis, Esquire, the Superintendent of the Province of Nelson, on the eighth day of June, one thousand eight hundred and sixty-eight, after reciting that by certain Proclamations issued under the hand of Alfred Saunders, Esquire, as Superintendent of the Province of Nelson, and bearing date respectively the thirty-first day of July, one thousand eight hundred and sixty-five, the first day of September, one thousand eight hundred and sixty-six, and the third day of September, one thousand eight hundred and sixty-six, certain lands within the said Province were declared to be a gold field, within the meaning of the Gold Fields Act, and called or styled the "Nelson South-west Gold Fields;" and after reciting that it was desirable and expedient to alter and extend the boundaries of the said gold field, it was declared and proclaimed, after revoking all former Proclamations declaring the boundaries of the Nelson South-west Gold Fields, that on and after the date thereof, all the land comprised within the under-mentioned boundaries, should be a gold field, for the purposes of "The Gold Fields Act, 1866," and that the same should be called the Nelson South-west Gold Fields, commencing at Weka Kura Point, on the sea coast, thence following the boundary of the Collingwood Gold Field to Mount Arthur, thence in a straight line to Mount Owen, then along the top of the ranges eastward of the River Hope to its junction with the Buller, thence to the nearest peak of the range forming the water-shed between the River Howard and Lake Rotaroa, thence along the top of the range to Mount Travers, thence along the top of the range to Mount Mackay and Mount Franklyn, thence along the top of the range of the Spencer Mountains to Travers' Peak, thence following the water-shed to the saddle between the heads of the Teremakau and Hurunui Rivers, thence by the northern boundary of the County of Westland to the mouth of the River Grey on the sea coast, thence along the sea coast to Weka Kura Point, excepting thereout certain lands not connected with the matter in question.

That your petitioners are informed and verily believe that all the lands in the Wangapeka District are included within the boundaries of the above recited Proclamation, and have not been withdrawn therefrom by Proclamation.

That the Mount Owen, as described on the Government Plan of the Province, is not the Mount Owen recognized by custom, or by persons acquainted with the locality, nor as yet laid down in the Admiralty Chart. They consider that the River Owen takes its name from the mount from which the river takes its rise, and that would place the mount the easternmost peak of the range, thereby placing the land as purchased by the late sale within the boundary of the South-west Gold Fields.

That on and about the thirteenth day of October, one thousand eight hundred and sixty-nine, one Alfred Culliford, a miner, stated publicly, in the City of Nelson, within the said Province of Nelson, that he had discovered at Wangapeka aforesaid a rich gold-bearing quartz reef, and exhibited rich specimens, alleged by him to have been taken from the said reef.

That the said Alfred Culliford did not apply for the sale of sixteen acres of land, but that he did apply for protection for having discovered a rich quartz reef, situated in the Wangapeka District, and was told that protection could not be granted him. He then applied for a lease, and was informed that a lease would not suit his purpose, but that he could purchase sixteen acres of rural land, although he had exhibited specimens of gold-bearing quartz, thereby clearly showing that the land had been improperly disposed of.

That on the morning of the fourteenth of October, one thousand eight hundred and sixty-nine, the said Alfred Culliford applied at the office of the Commissioner of Crown Lands for the Province of Nelson, to purchase sixteen acres of land at Wangapeka (including therein that part of the quartz reef from which he had obtained the specimens before mentioned), and the same was sold to him by the said Commissioner, under "The Waste Lands Act, 1863."

That shortly afterwards, and on the same fourteenth day of October, one thousand eight hundred and sixty-nine, many other persons applied for and purchased other sections of land adjoining, and including therein the continuation of the said quartz reef.

That by fortieth section of "The Gold Fields Act, 1866," it is enacted that "any district proclaimed or to be proclaimed a gold field, shall not be subject to any provisions of any Waste Land Act, or of any other Land Act for the time being in force regulating the sale, disposal, and occupation of Crown Lands within the Province in which such gold field is situate, except for certain purposes, therein mentioned."

That your petitioners feel aggrieved that such sales should have been allowed by the Waste Lands Board for the Province of Nelson, whereby the miners are, as they believe, illegally and unjustly deprived of their rights in marking out claims on and working the said reef, according to the fourth section of Rules and Regulations of the Nelson South-west Gold Fields.

Your petitioners therefore humbly pray your Excellency to cause strict inquiry to be made into the subject-matter of this petition, and in the meantime to withhold the grants from the persons who

have purchased such lands as aforesaid; and if it shall be found that the said lands are within the boundaries of the Nelson South-west Gold Fields, to declare such sales to be null and void.

And your petitioners shall ever pray, &c.

[Here follow 804 signatures.]

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No. 24.

Copy of Telegram from the SECRETARY for CROWN LANDS, Nelson, to the Hon. W. GISBORNE.  
Nelson, 13th December, 1869.

JUST got your telegram. On the 10th instant inserted following notice in the papers, for hearing on Thursday. This seems to give satisfaction. I hear delegates from the diggers are already in town. If this is not satisfactory, it will be better to appoint a special person to go to Wangapeka. I cannot see the least use in going there to decide the boundary question, which cannot be done there. Let me know if you wish the Thursday meeting put off:—"Notice.—Mr. Domett having been requested by the Government to inquire into and report upon the circumstances which have led to the objection to the survey of certain lands at Wangapeka, lately sold by the Commissioner of Crown Lands, Nelson, will hold the said inquiry at the Government Buildings, Nelson, on Thursday next, the 16th instant, at eleven o'clock, when all persons having complaints to make, or evidence to give, with reference to the above matter, are requested to attend.—Alfred Domett, Secretary for Crown Lands. Nelson, 10th December, 1869."

The Hon. the Colonial Secretary, Wellington.

DOMETT.

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No. 25.

Copy of Telegram from the Hon. W. GISBORNE to the SECRETARY for CROWN LANDS, Nelson.  
Wellington, 13th December, 1869.

UNDER circumstances stated by you, your inquiry had better go on. If necessary, special further inquiry can be held at Wangapeka. Mr. F. Wakefield should give you every aid as Secretary without extra charge. Report by telegraph if no mail is starting.

The Hon. Alfred Domett, Nelson.

W. GISBORNE.

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No. 26.

Copy of Telegram from the SECRETARY for CROWN LANDS, Nelson, to the Hon. W. GISBORNE.  
TELEGRAM received and will be attended to. Mr. Wakefield will of course render assistance in any way he can.

The Hon. the Colonial Secretary, Wellington.

ALFRED DOMETT.

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No. 27.

Copy of further Telegram from the SECRETARY for CROWN LANDS, Nelson, to the Hon. W. GISBORNE.  
Nelson, 16th December, 1869.

It is done. The inquiry is going on. Counsel present.

The Hon. the Colonial Secretary, Wellington.

F. WAKEFIELD  
(for the Hon. A. DOMETT).

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No. 28.

Extract from Letter from the SECRETARY for CROWN LANDS to the Hon. W. GISBORNE.  
SIR,— Nelson, 24th December, 1869.

I have the honor to inform you that I concluded, yesterday afternoon, the inquiry Government commissioned me to make into the circumstances attending the late sales by the Commissioner of Crown Lands of this Province of certain auriferous lands at Wangapeka.

As the conclusions arrived at by myself on the various questions involved in this investigation could not be binding either on Government or on either of the parties whose interests are affected by the sales alluded to, and as considerable excitement existed in this place on the subject, which anything tending to shorten the period of uncertainty as to the probable views of Government in the matter might be expected to allay, I considered it best to make a public statement of those conclusions at the termination of the inquiry. I accordingly did so, and I now enclose copies of the statement, together with my minutes of the evidence given by the numerous witnesses examined, which I beg you to accept as my report on the subject I was requested to investigate.

\* \* \* \* \*

I have, &c.,

ALFRED DOMETT,

The Hon. the Colonial Secretary, Wellington.

Secretary for Crown Lands.

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No. 29.

Copy of MINUTES of EVIDENCE respecting the Inquiry into the Wangapeka Land Sales, taken  
by Mr. DOMETT.

THURSDAY, 16th DECEMBER, 1869.

MR. HENRY ADAMS attended on the part of the Provincial Government, and Mr. Kingdon attended on the part of the petitioners.

Mr. Domett, before taking his seat, said:—Before commencing the inquiry into the sale of the Wangapeka lands lately made by the Commissioner of Crown Lands, I think it advisable to make a few remarks on the objects and limits of the inquiry, and the course I propose to pursue in making it.

In the first place, it should be distinctly understood that it is simply an inquiry; that I have no power whatever to declare what is the law, which is the business of the Supreme Court; nor to enforce the law when authoritatively declared, which is the business of the Executive Government and the officers duly appointed for that purpose; still less to make or alter the law should it appear or be found to be defective, which is the business of the Legislature alone.

My business is simply to inquire into a certain sale or certain sales of land, and report my opinion upon them to the Government. This being understood, what I propose to do is this: I propose to examine, on oath, every one whose evidence may appear essential or in any way conducive to the throwing light upon the subject; whether upon the circumstances attending the application and sale of the land, the position of the land itself, or the provisions of the law which affect it.

I propose to examine any one whom the Provincial Government, or its officers, or the purchasers, on the one hand—or, on the other, those who object to the sale of the land—may desire to have examined; and I am glad to understand that it has been arranged that professional gentlemen, one to watch the proceedings for the Provincial Government, and one on the part of the miners or others who claim an interest in the lands, are to attend the investigation.

I propose that these gentlemen shall be allowed to cross-examine any witnesses whose evidence they may consider opposed or having a tendency to oppose their views. I think that in this way it will be made apparent that the only object of the Colonial Government, at whose request I have undertaken this inquiry, is to throw the utmost light possible on the whole transaction; to screen no one, whoever he may be, who has in the slightest degree swerved from the strict line of his duty as prescribed by the law in the matter (should any one have done so, which I am far from asserting); and, lastly, to discover if possible what the law on the subject precisely is, by which all of us are bound to be guided, and which we are all of us bound to obey.

The first point of inquiry, as I have already hinted, will be—What were the circumstances attending the actual application for, and sale of, these lands? I propose to take the evidence on this point of the Commissioner of Crown Lands, and of any of the officials under his superintendence; and of some of the purchasers, especially of those holding offices under Government, who may appear to be best acquainted with what actually took place. This will, I trust, elicit such information as will effectually determine one way or the other the truth or falsehood of the allegations, or rumours, or imputations, or whatever they may be called, of any abuse by any of these gentlemen of the information, confidential or otherwise, their official position may have put them in possession of. I have just as much to learn myself as to the facts on these points as any person here present.

The facts of the withdrawal, or rather non-withdrawal, of these lands from sale, I propose to derive from the members of the Waste Lands Board themselves, or such of them as it may seem necessary to examine. I allude now only to the mere facts (not the law) of the case.

The second point of the inquiry will be still more important—namely, Whether the sale was legal or not?

In order to arrive at an opinion upon this point, I think it will be sufficient to consider two preliminary questions, the answer to either of which would determine the point.

1. Was the land sold within the boundaries of any proclaimed gold field? In which case, as most of you are probably aware, the land, by the Gold Fields Acts in force in the Colony, is made exempt from the operation of the land laws, and consequently could not be sold. Now in this inquiry it will be necessary carefully to examine the various maps which lay down (and unfortunately lay down diversely) the topographical points on which the boundaries of the gold fields depend; to distinguish accurately between such as are authoritative maps and plans and such as have no pretension to that character; to take the testimony of some, at least, of the surveyors or officials acquainted with the circumstances under which these maps were severally constructed; as well as of those of the Executive officers of the Province connected with or cognizant of the drawing up of the Proclamations declaring these boundaries, whose evidence is procurable. This part of the inquiry I propose to go into in the fullest manner possible; and though, from what I have already learnt of the matter, I anticipate a rather peculiar state of circumstances will transpire, still I entertain a confident hope that some certainty of decision may be ultimately arrived at.

2. The alternative question, which I alluded to as necessary to be considered in forming an opinion as to the legality of the sales, is a more complex and difficult one—viz., If the land be not within the gold fields, was there any such obligation on the part of the Commissioner of Crown Lands or of the Waste Lands Board to withdraw it from sale as would make the sale of it illegal? And here I think we must ask, and as far as possible decide, firstly, Is the power of withdrawal discretionary on the part of the Waste Lands Board? and secondly, Has the Commissioner of Crown Lands preliminary power of refusing to sell until the decision of the Waste Lands Board be formally made?

In this part of the inquiry, I hope to hear the arguments *pro* and *con*. fully stated and fairly weighed; in the course of which an opportunity will be given, and, I trust, will be accepted by the members of the Waste Lands Board, His Honor the Superintendent, and the Commissioner of Crown Lands at all events, to communicate their views of what the land laws require of them with the utmost candour and completeness, and to support those views, as they are well able, by arguments which, whether satisfactory and convincing or not, will I am sure be worthy of attentive consideration.

Lastly: When all this is done (although I am not quite clear that it absolutely falls within the line of my present duty to go into this part of the subject), I shall still be willing, on the supposition that the result of the inquiry should seem to point to the probability that the sales have been regularly made, to hear from any one desirous of making it, provided it be made temperately and reasonably and within moderate limits, a statement of his views both of the injury or wrong done to him by the existing state of the law, or by the administration of it in the present instance; and, always on the same conditions, of his views of the way in which it should be amended. But on the

latter point it is only necessary, or I trust unnecessary, for me to remark that this is not a public meeting in the ordinary sense of the words for the discussion of a public question, but an official inquiry, which must be conducted in the manner and with the formality which is customary on such occasions.

MINUTES OF EVIDENCE.

The following witnesses were then examined:—Mr. Daniell (Commissioner of Crown Lands), Mr. Catley (Receiver of Land Revenue), Mr. J. Harley, Mr. Brunner, Mr. Shallcrass, Mr. Maclean, Mr. Nehse, Mr. Sharp (Resident Magistrate), Mr. Jackson, Mr. A. Culliford, and Mr. A. Greenfield (Provincial Secretary).

Mr. *Daniell*: I am Commissioner of Crown Lands for Nelson. On the 13th October, Mr. Greenfield, in the course of the morning, came to me saying that there was a miner who asked to get protection for the discovery of a quartz reef, asking what could be done. I told him we could not give him any protection under "The Waste Lands Act, 1863," such as he sought, and showed him the seventieth section, providing for granting gold-mining leases outside the gold fields, the latter clause of which afforded no security, because it required the land should go to auction. He wanted immediate security. Shortly after Mr. Greenfield brought the miner, named Culliford, who made his personal application for security. I showed him the same clause, section 70. He said that that would not grant him immediate security, to which I felt he was entitled, as a miner who had discovered what would be a great public benefit. I spoke of the leases, and under "The Land Leases Act" the latter would not suit in any way. I then showed him the clause allowing purchase of land at £2 per acre, as the only one which would give him any security (section 35). I only showed him the Regulations, giving him full information as to the course of action open to him, leaving him to make his own choice. After that he went away for a time. He returned in an hour so, in company with Mr. Everett, of the hotel, and said he had made up his mind to purchase, and did accordingly purchase sixteen acres, by paying down £2 an acre for it. He then asked as to the survey; I told him he was at liberty to have the land surveyed at his own expense, as we were not likely to have lands surveyed in that direction. He then spoke of who was open to do it; I mentioned two or three, among others Mr. Brunner. This I left entirely to his own choice; they asked Mr. Brunner. This was all that took place that day, so far as I was concerned. Mr. Curtis was with me when this application was made. Mr. Curtis said immediately, "We must send for Mr. Barnicoat and have this land withdrawn." Whenever we are past the post time, my practice is to send to Mr. Hodder to forward a message to Mr. Barnicoat. I took the letter myself to Mr. Holder, the driver of the van, but the van was not down that day. I have forgotten to mention that during the conversation respecting the case, Culliford expressed his anxiety to have it kept quite secret, saying that he was afraid that before he could get to his claim it would be discovered; that there were those who were watching his steps. I suggested to him that if he was so anxious to reach his claim before it was purchased, he should go away at night; and the last thing I said was, to keep his own counsel, as if he did it would not be made known. The first thing next day, when I went to the office, Mr. Catley met me at the office door, saying there were many people wishing to purchase, and asked, "Must we proceed with the sale of the land?" I said, I did not see how we could help it until we had withdrawn it in the usual form, but I would go immediately to Mr. Curtis. I met Mr. Curtis, and suggested whether we could not do this ourselves; but he said he thought that would not be legal, but would be upset unless Mr. Barnicoat had been duly summoned. When he heard I had failed in getting the message to Mr. Barnicoat, he said he would send a policeman immediately. I went to Mr. Shallcrass to get one off immediately: this was immediately after 10 o'clock. I then returned to the Superintendent's room to prepare a form of withdrawal for the *Gazette*, and immediately it was made out Mr. Hodgson was sent off to the printers to see it printed and bring it back, so that when Mr. Barnicoat arrived it might be ready for posting up. The policeman met Mr. Barnicoat coming into town, so that by the time he had arrived, the printed form was ready; and it did not occupy five minutes for the Board to pass the resolution for withdrawal. I did not notice the exact time that had elapsed since I left the office, but it was between 11 and 12 that the notice was posted. Up to that time Mr. Catley had been receiving the moneys from desirous purchasers, as Receiver of Land Revenue. Mr. Catley considered he had authority from me to sell the land.

By Mr. *Kingdon*: Culliford informed me that the land he asked to purchase contained minerals of value. I don't think I had any conversation about the richness or anything else. My simple desire was to secure him. He said he had three or four mates on the ground who wanted to secure the land. I had the impression, whether got from Culliford himself or Mr. Curtis, that it was a gold-bearing quartz reef. I did not see the specimens till some days after. I thought it required the decision of the Waste Land Board. The whole of that district was known for years to have been auriferous, and to be what was called "poor man's diggings." Culliford showed a sketch of the land from his pocket-book I think, and it was understood to show the surveyor the part he wanted. We had no plan on which he could show it. The traverse had not reached within eight miles. I don't know under what description it was sold. We do not give the numbers until surveys are made. He was sold sixteen acres of land to be pointed out to the surveyor. We had no plan he could show it precisely upon. We knew it was between two streams discharging themselves into the Rolling River. It was sold as rural land under the thirty-fifth section. The land had never been classed; it remained as simple rural land. I mentioned Mr. Austin and Mr. Brunner as surveyor to Mr. Everett. He said he would have Mr. Brunner. I had nothing to do with the selection of Mr. Sinclair. I think Mr. Sinclair was a purchaser of land, and Mr. Brunner also. The numbering of sections is left till the survey is completed. We sell by the squares, giving to every new purchaser the number following the last purchase numbered on the square. The purchasers were not required to deposit for surveys, because they executed their own surveys, for which there is a regular allowance. The land, though auriferous, was considered saleable, for reasons given in my report to Government, in paragraph beginning "Another question, &c." The case of sale alluded to occurred about eighteen months ago. It was an application for lease



by a man who had already purchased fifty or sixty acres several years previously. It was only an application for a lease. Mr. Burke's application for a mining lease was for the same piece as a Frenchman named François claimed. I did not refuse Culliford a lease. He might have had one if he liked. It would have given him no protection. Two members form a quorum of the Board. I take it two can act after the three have been summoned. I don't know any meaning of a quorum but that. We did not send a man off on horseback immediately after Culliford applied because we did not see that there was the urgent necessity for summoning Mr. Barnicoat, Culliford having expressed such a desire to keep it secret. This made us feel it was necessary to have a meeting at the usual time. I had not the slightest idea there would have been a rush, or I would have taken Mr. Curtis up in my own trap, and had a meeting anywhere. Culliford never showed me any specimens. I did not see him until the 13th. The land had never been leased to Mr. Tatton. He had made a verbal application, I believe, to Mr. Richmond. He had never applied to the office. This I have only learned lately. I was not aware that 200 men were getting gold in that district. I did not know how many were residing there. I do not know of any application to have it proclaimed a gold field. None came through my office. I had no reason to suppose, when Culliford left, there would be any more applications. I had heard it from nobody but Culliford. I did not mention it myself to any one out of the office. It is a thing I never do.

Mr. *Catley*: The first purchaser was Mr. Everett, who bought sixteen acres. I hesitated a moment about selling until I had seen Mr. Daniell; I waited until 10 o'clock. I asked him if I should proceed to sell these lands, and he thought there was no way of legally preventing it. I proceeded to the sale, first to Mr. Everett, of the section subsequently called No. 5, on square 148, being the second application. This morning Mr. Everett purchased for himself. I did not ask from whom he learnt about the land. One reason we supposed there would be no rush was, because Mr. Everett having come with Culliford about the middle of the previous day, or rather between 1 and 2 p.m., no other application had been made during that day. Mr. J. A. Harley was next, representing seven purchasers. I did not ask Harley where he learnt about the land. I know it had not been from the office, and I supposed it was from Mr. Everett—I mean myself and Mr. Daniell, we being the only two in the office privy to the matter. I went on with the other sales until I was stopped by the *Gazette*, which was posted up about half-past 11. I am positive I told no one about the land myself.

Mr. *Harley*: I am Clerk to the Resident Magistrate. I bought land on the 14th October, at the Land Office. I bought in the name of eight people—sixteen acres. It was auriferous land, no doubt. I was asked on the night previous to make one of a party to take up a lease. The person who asked me was Nehse, the tobacconist. He told me that people were talking about town that a purchase had been made of land on a reef at Wangapeka, and that several people were going to apply for leases in the morning, and he thought it would be a good spec. to go in for a lease too. I applied for a lease in the first instance; I came to the office before 10 o'clock, and made out an application for a lease of fifty acres. I made it out in my own office. I tendered my application, with the money, to Mr. Daniell, at 10 o'clock. He said he could not receive my application for a lease, but if I wanted the land I must purchase it. Mr. Everett was there at the time. The lease was made out under the Nelson Leasing Act—not a gold-mining lease. Mr. Everett then told me I had better tail on to him, and he would show me where to select the land, *i.e.*, take the next piece of land to him. Mr. Everett told me what to do; and instead of going North I went South of Culliford's claim. The discovery of the reef was a matter of general conversation; I heard it from several people. I did not hear it from any person at all connected with the Government Offices. I started with the intention of taking out a lease in the names of Nehse and Thomas Harley. I met Field and Landon on the road to the office, who stopped me in the street, and asked me if I had heard anything about it. I told them yes, and was going to apply for a lease. They asked me if I would put their names in with ours for the lease. I told them yes. When I found I could not get the lease, I bought the land in their names, and added Mr. Disher's and my brother William's to make up eight.

By Mr. *Kingdon*: Mr. Sharp's name was inserted by me, and land bought in his name. I will explain it. I think it came about by either Mr. Everett or myself saying to Mr. Brunner, "You had better have a bit yourself." Mr. Brunner said, "Let us make up another small party, and I will take a share in it." I think they wanted six. I took a share. Mr. Brunner, also Mr. G. Sinclair and Ambrose Moore, took a share each. Two shares were then left open. I asked those present if they would mind me taking them up in the names of Charles Everett and Mr. Sharp, and I would pay the money for them. They agreed, and I paid the money for them. Neither of them were present, and neither of them knew anything about it. I did not know where Mr. Sharp was at the time. I had no authority from Mr. Sharp to act at all; I did it entirely on my own responsibility. I thought I was doing Mr. Sharp a kindness in doing this. Mr. Sharp did not repudiate it, but he said a day or two afterwards, it would have been as well if he had had nothing to do with it. When I told him of it at first, he seemed pleased.

By Mr. *Adams*: If Mr. Sharp's name had not been put in, somebody else's would. We wanted two more names to make up the number. There were one or two other persons asked. I think Mr. Catley was one; but he laughed at the idea, and appeared to me to think it nonsense.

By Mr. *Kingdon*: When I made my application I applied for sixteen acres adjoining Culliford's, to the South. Everett told me he was adjoining to the North. For the second application, Mr. Brunner described the land as "Over Nuggety Creek." I believe there is a gap between our land and other people's; there is one break between, on the north side of the Prospector's Claim.

Mr. *Brunner*: I am called Consulting Surveyor under the Provincial Government, Returning Officer under the General Government. I consider my appointment does not place me in any confidential position towards the Government. I can be called upon to give any information to the Superintendent about lands whenever he requires it. Mr. Culliford and Mr. Everett asked me to undertake the survey for Culliford only. It was I think a little after 10 o'clock p.m., on the 13th. I was engaged as a private surveyor to Culliford; I was in no way engaged as a Government surveyor in the matter. Of course I get the necessary information on being asked to survey. I would not go



to execute the survey, being Returning Officer, and having to attend the Provincial elections. I agreed with Culliford to send up Mr. Sinclair, and after the election was over I would go up and verify it, and forward it to the Government. I gave no information to any one about the land at all. I did not describe land for Harley's purchase. I filled up the application for purchase in which my own name appeared. That information was given me by Culliford himself, at the time of my writing the application, which accounts for the gap, or space, between the application alluded to by the former witness.

Mr. *Shallcrass*: I am Inspector of Police. On the 13th I bought land from one of the purchasers, after the sale was closed. This was from George Harper. He thought so little of his bargain that he let me have it for £2 less than he paid for it himself. I knew nothing about the land till the sale was closed. I put in no application direct.

Mr. *Maclean*: I am Registrar of the Supreme Court. I bought land at Wangapeka on the 14th. On the morning of the sale I came down at 10 o'clock to my office, and heard from Constable Sherwood that a sale was going on. I went into the Land Office, and after finding some one to join me in a purchase, I made one. I don't remember whether Constable Sherwood told me any particulars about the transaction, but I very soon learned it from persons in the office. I do not mean the officials. I considered I had the same right to buy as any one of the public. I was not aware at the time I made the purchase that the Waste Lands Board anticipated withdrawing it from sale.

By Mr. *Kingdon*: I can't be certain whether Sherwood said it was auriferous land. I went in not being informed that auriferous land was being sold. I was aware of it before I purchased.

Mr. *Ernest Nehse*: The information I got about this gold reef I got from Mr. Culliford himself, on the 13th, I think, after he had been to the office, between 5 and 6 in the afternoon. I had some specimens of different gold fields, being Secretary to the Prospecting Committee—a voluntary society to encourage prospecting. Mr. Culliford came in company of Mr. Thomas and Mr. W. Harley to my shop. They wanted me to show Culliford my specimens. He then showed me some of his. I asked if it was a fair question to inquire where he got them. He answered, "I don't mind telling, since I am secure." He then told me they came from the Wangapeka, from a reef he had discovered. After asking him several questions with reference to the matter, I made up my mind to secure some land myself. In the evening I communicated my information to Mr. Joseph Harley, and asked him if he would join, with his two brothers, in taking up any land, if possible, on lease. I appointed him in the morning to act for me, placing any funds he might require for my share at his disposal. Mr. Culliford did not know I was communicating this to Mr. Harley; at least I never mentioned it to him. Culliford said in the presence of W. and Thomas Harley "I don't mind telling you, since I am secure myself." I was not aware of the exact locality of the land, but I knew it was to the west or north, or whatever it might be, of Mr. Culliford's application. I had no communication with any of the Government officers before I got the information from Culliford. It was after his communication to me in presence of W. and T. Harley that I had the conversation with Joseph Harley.

Mr. *John Sharp*: I am Resident Magistrate of Nelson. I believe I bought land on the 14th; I don't remember the date, and I knew nothing of the fact till some time after. I think I received my information from Mr. George Sinclair, who told me he and I were partners. I came down to the Land Office the same day of the sale, to ascertain the fact. I wished in the Land Office to have the application amended, and my name withdrawn. I was informed that no application could be touched. I don't remember by whom it was. I asked to look at the applications, and I then saw that one of the subsequent applications described the land in the application my name was concerned in as a boundary. I then saw it could not be altered. I wished my name to be withdrawn, because I did not wish to be mixed up in the transaction. I knew before 10 in the morning that persons I saw there were going to purchase—they told me so. Mr. Everett I think told me first. I had seen the specimens the night before in his place. It was because I was a Government officer that I did not wish to be mixed up in the transaction. I don't know why Government officers should not be so mixed up, but for reasons of my own I did not wish to be. I think Mr. Sinclair, when he told me of the transaction, told me that either Mr. Harley or Mr. Brunner had included me in the application; I am not sure which. I did not pay any money, nor have. I am not aware that Mr. Harley has given evidence this morning that he did this. I always thought Mr. Brunner did so. I daresay this was because I saw the application in his (Brunner's) handwriting; but afterwards, when I was told it was Harley's application, I accepted the information.

By Mr. *Moss*.—Do you generally permit your clerk to sign your name to papers involving payment of money? This was an unusual transaction.

Neither Mr. Harley, nor Mr. Brunner, nor any one else, had any authority from me to sign, or put in any application. When Harley told me about it I laughed, as I knew of the transaction before. I said, "Well, you have done wrong at any rate." When he told me, I had heard it from several people who had been bullying me about it; but I never said I was pleased: if he said so, he said what was not the fact. I consider a Government officer has as much right as any one else to purchase land. I do not consider any Government officer would make use of information obtained officially for his advantage. I knew of this land being open for sale, and had declined to make use of the information.

Mr. *H. D. Jackson*: I am Provincial Auditor. I bought land on the 14th. I heard at Everett's Hotel that Culliford had bought land, and saw the specimens at the same time Mr. Sharp saw them. I had no idea of buying land till I got into the Land Office. Next morning I saw the crowd around the table. I got no more information, but it was purely from seeing others buy. I have bought land before in the same office when I saw others buying it. As far as I can recollect, there was no attempt to keep the sale secret. Culliford was present when I saw the specimens. I can't say whether Culliford said where they came from. I learned at Everett's Hotel the day before the sale that the gold had been discovered. Culliford was present when the specimens were shown me. I am doubtful about it being said in his presence where the gold came from. The conversation was general. I met one or two people going to the Land Office, who asked me if I was going to buy land. I said, No. I think I said, "What is going on?" I think they said some reefs were being sold. I ascertained the

fact when I got to the Land Office. Culliford was not present at the sale. I heard at the office it was land in connection with Culliford's reef. Mr. Harper told me to describe the land "north of me." I had no information from any officer of the Government of Culliford's application, or of land being sold in that neighbourhood. It was as being auriferous land that I bought it, under the name of general rural land.

Mr. *Alfred Culliford*: What has been stated is correct as to my application and information given me at the Land Office. I did not make any attempt to keep the discovery of the gold reef at Wangapeka a secret. I showed the specimens to Mr. Everett. I did not show them to any one else previously. I left them with him to show them to whom he pleased. I did not wish or enjoin upon him to keep the matter secret at all. I can understand that the Government officers might have learned the fact of the reef without getting it from the Land Office. I had no objection whatever to the fact of the discovery being known, as I had secured my piece of land. I thought my purchase was a legal one. I could have held nearly the same amount of land by taking out a miner's right. It made no difference to me whether I secured it by lease or purchase. I did ask Mr. Daniell to keep my application secret for the day on the 12th. It was somewhere about 12 or 1 o'clock. The day previous to the purchase I saw Mr. Greenfield; also Mr. Daniell. I went with Mr. Greenfield to Mr. Daniell. Mr. Greenfield was drawing out a lease. He asked whether it was within or without a gold field? I said without; and he said he could not give me a lease. I am sure I saw Mr. Greenfield and Mr. Daniell the day before I made the purchase. I saw Mr. Greenfield on the 11th, but not at his office. On the 12th I saw Mr. Greenfield and Mr. Daniell, when the former began to prepare a lease. I asked Mr. Daniell to keep it secret that day, and on the 13th I went with Mr. Everett and bought the land. I saw no necessity for keeping it secret after that. I did not make application to Mr. Greenfield or the Waste Land Board officially. It was not in his office. The Government knew of the reef two days before I bought the land.

By Mr. *Adams*: I told Mr. Greenfield only that it was at the Wangapeka, but not the exact spot. I told Mr. Greenfield and Mr. Daniell, I believe, that there had been diggings there—about forty men in the whole district. Gold had been worked for about ten years in the Wangapeka, but there never were a great quantity of people there. I am quite sure it was the day before I bought the land that I conversed with Mr. Greenfield and Mr. Daniell.

Mr. *Greenfield*: I am Provincial Secretary of the Province. I saw Mr. Culliford on Monday the 11th, about the mine, in the street. Next day I went with Culliford to the Land Office. On the Wednesday Culliford bought the land; on Thursday the rest of the purchases were made. On the Monday he met me in the street, he asked me to go into Mr. Everett's, as he wished to speak with me. I went into a room; he showed me some specimens of gold-bearing quartz; he said he believed he had discovered a reef, and wished to know what protection he could get. I told him I did not recollect off-hand whether he could get protection or not; but if he came to my office in the morning, I would take him to the Commissioner of Crown Lands. He asked me at the time to be sure and keep it quiet,—not to let it be known that he had discovered a reef—which I promised to do. That was all that took place; he let me know he had discovered a reef, but gave me no clue to its position. He said it was not within a gold field; I asked him that question; that was my reason for taking him to the Commissioner of Crown Lands. This was on the Monday. I had no information Government could act upon before Mr. Daniell came to the Superintendent. The first time Culliford told where the reef was, was the day he purchased—on the 13th. Mr. Everett was present at the time I was present. It was between 12 and 1 o'clock. The Superintendent was also present. Culliford asked immediately after the sale, what protection he would have, as there would be men upon the ground as soon as he got back. I mentioned this to the Superintendent, who told me to summon the Waste Land Board immediately. It was supposed it would take Culliford two days to get up there. There could not be a rush till he arrived there, as he was to keep it perfectly quiet till he had pegged off the land, and particularly requested that I should do so.

By Mr. *Daniell*: I may have been mistaken as to my having brought Culliford the day before the sale to your office; that was my impression.

SATURDAY, 18TH DECEMBER, 1869.

Mr. *Harley* recalled: I did not place the land applied for on the other side of the creek; if it was done so, it was done by some other person. The application was written by Mr. Brunner; I don't think Mr. Brunner knew anything about it. I did not know that there was a second reef broken out on this spot. I did not put Ambrose Moore's name in the application; I heard his name mentioned with the others; I can't say whether he gave his authority for this. I believe Mr. Gully was one of those requested to take shares; I can't say whether I heard him asked; there were twenty or thirty persons talking together. Mr. A. Moore is a stepson of Mr. Gully; I believe Mr. Gully wished A. Moore's name put down (?); he did not tell me so. I was at the Land Office at 10 o'clock; I had no idea this land would be withdrawn from sale; I never suspected it till I bought the land, nor that the sale would be stopped. My remark, "do the same again," requires explaining. I consider some of the people of Nelson have made the difficulty, not the purchasers or the Government. I think that the active part taken by one of the editors of the papers has had a great deal to do with it. I believe the difficulty has been caused by one of the papers, and the disappointment experienced by some persons who had not the opportunity of buying. [Circular handed to witness by Mr. Moss, of 17th June, 1868, from Colonial Secretary to Wardens and Gold Receivers.] I never saw that document, or a similar one to it, to my knowledge; I am not aware that there are any prohibitions in the Gold Fields Acts against Government officials acquiring interests in gold fields.

By Mr. *Adams*: I never received any intimation of that kind; the reputation of Government officials has been attacked.

Witness wished Mr. Everett called. Mr. Domett replied, "Not necessary."

Mr. *Brunner*: At the time of writing the application, Culliford stood by me, and I used his words.

Mr. *Gully*: I was applied to to purchase; I refused; afterwards I agreed to purchase in my

stepson's name. I agreed to pay the money for him; he is of age, and the interest is his own. I refused on my own account, because I did not care about it.

Mr. *Curtis*: I am Superintendent of the Province of Nelson. Proclamation read is correct. The plan before the Court is the plan that hangs in my own office; Census Districts have been added since. It was the plan from which the Proclamation was drawn; that plan does not include the land. The intention of drawing from Mount Arthur to Mount Owen was to take as nearly as possible the water-shed between the Karamea and Wangapeka; the map was made, I believe, some time before I came into office. I asked for a plan, and that was given me; I assumed it to be correct, and made no special inquiries about it; I got it from the Surveyor's office. I think, as far as I recollect, when I inquired for the plan it had been previously in my office, and had been taken away for the purpose of laying down Census Districts. I know nothing whatever of the position of the points in question of my own knowledge. The Proclamation was intended to exclude the whole of the Whangapeka country.

By Mr. *Kingdon*: The plan is not signed by any one. I know Stanford's plan. The published map is furnished by the Government to the Warden's office. These maps (Stanford's) are furnished to the Wardens for their information, as Directories or other published documents. I am unable to answer whether they are furnished with any plans from the Survey Office; the Surveyors, I should think, are; probably not the Wardens.

By Mr. *Moss*: I am not aware the map in my office is incorrect. The country to which you refer has never been surveyed at all. I could have obtained a verified map from the Survey Office. The point in question was one which already existed in a former Proclamation, and the boundary was described from that described therein two years before; I believe the map was made in 1865.

By Mr. *Adams*: I did not say that it was not approved, but that it was not signed. I am aware it differs from other maps in the Survey Office; whether it is correct or not I do not know.

By Mr. *Domett*: I believed it was the same map used by the former Superintendent when he made the Proclamation from which I adopted part of the description. It had been the rule to take the water-shed. Mr. Sharp, the Resident Magistrate, had the map away for census purposes. My own Proclamation was drawn from this map.

Mr. *Greenfield*: I can't state positively this map was used for the old Proclamation, but I can that this map was coloured showing the gold-field boundary immediately after Mr. Saunders' second Proclamation, and has been since hanging in the office, until wanted by the Census Enumerator. I can say positively the map, as far as regards Mount Owen, has not been altered. In preparing boundaries, the Superintendent usually called on Mr. Blackett or Mr. Brunner to give the precise boundaries. Mr. Brunner was called to show the boundaries in the present case. I don't know whether Mr. Blackett was.

Mr. *Brunner*: To the best of my knowledge this map was made under my direction by Trent, a cadet in the Survey Office, in the regular employ of Government. The detail is a compilation from other maps in the office. I believe Mount Owen is laid down here in a different position from that in Stanford's map. It is also different from the position in Haast's map—it is further from the river. I do know Mr. Haast's map. The second map produced was made by Mr. Burnett. I believe it accompanied Mr. Haast's report. Mr. Burnett, I think, put everything on that map. The map was made by Mr. Burnett at his own residence. I saw him working at the map. I have looked over that map with Mr. Haast; I believe Mr. Haast considered this correct, and I have no doubt it was the map accompanying his report. The outline, I think, was taken from Mr. Gully's map. No. 3 is Mr. Gully's map. Mount Owen, as laid down on No. 3, does agree with that laid down on map No. 2. I have no possibility of saying how it was that Mount Owen on map No. 1 differs in position from both No. 2 and No. 3. This was made from the others as far as the outline was concerned. I don't imagine that the question of the position of Mount Owen was ever brought before me. I scarcely believe either Mr. Trench or myself knew that it had been altered. There had been no subsequent survey or exploration. The map No. 1 was made expressly to show the boundaries of the gold fields. The descriptions of the colours on the map No. 1 are in Trench's handwriting. I know of no other map previously existing in the office, from which the position of Mount Owen in No. 1 might have been taken.

Mr. *Gully*: I don't recollect anything about the compilation of map No. 1. I am not aware of any map, sketch or otherwise, previously executed, showing Mount Owen; of course I do not refer to Stanford's map. I don't know how it is there is no date on map No. 1.\* I don't think it has been the rule to put dates to all the maps supplied from the office; it would be a good rule to do it. Stanford's map is dated May, 1864.

Mr. *Brunner*: I suppose the placing Mount Owen in that position on the map was accidental, or a mistake. Map No. 3 was compiled by myself and Mr. John Rochfort, to a small extent, from Burnett's and Haast's map.

Mr. *Gully*: The map No. 4 was made by me, and the relative positions of Mount Owen are laid down on it as correctly as I possibly could.

By Mr. *Kingdon*: The rivers on the right hand and bottom are connected as you find them on the Provincial Council plan. The Wangapeka River on No. 4, and the Buller and Owen (junction only), are laid down from actual survey—not trigonometrical, but traverse survey. Mount Arthur on No. 4 is not in the same position as on the Provincial Council plan, which is a mere sketch on that part. Mount Arthur has now been fixed by Mr. Lewis. Mount Francis, a mountain named by Haast, is in Stanford's map placed on the wrong side of the river, compared with Haast's plan. I have not examined Stanford's map. I could not use it in the Survey Office; it is never used there. I could not say whether maps equally incorrect may not have been sent from the Survey Office. Most part of the map of the Province is from sketch survey. There is a very little part, comparatively speaking, actually surveyed.

By Mr. *Adams*: The mountains on Haast's map are not laid down as surveys.

\* Trent's telegram says No. 1 was made November, 1866.

By Mr. *Sharp*: At the time No. 1 was made, a tracing of it was sent to Wellington, of which I have a tracing made by Trent, received from Hunter, Census enumerator, Buller District. This was made in November, 1867, from entry in Survey Office day-book. The tracing agrees with map No. 1.\* I am a member of the Executive Council, and I know that the Proclamation of 1868 was made from this map. The object in fixing that line was to exclude the Wangapeka Gold Fields. It had been the wish of every Government so to exclude it. It was called a "poor man's diggings," and it was always wished to exclude it. In November, 1867, a copy of this map No. 1 was sent to Wellington, where it is now. No one ever looked particularly into the question of the position of Mount Owen. I don't think any one in New Zealand could say where it is. It was the wish of the people of Wangapeka it should be excluded.

By Mr. *Moss*: I take it the experience of the Members of the Council representing the district, is the experience of the diggers inhabiting the district.

Mr. *Mackay*: I am Native Commissioner. I accompanied Mr. Haast on the expedition. The mountain shown on map No. 2 is the mountain Mr. Haast named Owen. I was not present when Mr. Haast named the hill; it was pointed out to me by my cousin, Mr. James Mackay, who was out with Mr. Haast on the day he named it. It could not possibly be any other mountain; no other conspicuous mountain could be seen from that particular portion of the Buller River—I mean the part between the junction of the Mangles and the junction of the Owen with the Buller. That is the part Mr. Haast alludes to from which he saw the mountain he named the Owen. The mountain I speak of perfectly agrees with his description, as having three serrated peaks. It was quite impossible to see a mountain to the east of the Owen from the spot where Haast was travelling; I am positive it would not have been to the north, or towards the sources of the River Owen. I don't know when he named the Owen; I should imagine it was on the following day, I believe he gave it that name. He was camped opposite the junction of the Owen and Buller on the morning I met him. I did not know at the time which he called the Owen. It is merely a mountain stream, not a river which would attract any particular attention. Seeing it on the map is all the acquaintance I have with it. We did not point out the river to him on the journey. There can be no question as to the mountain named on the map being the mountain he named "Mount Owen."

By Mr. *Moss*: I am sure there is no other more conspicuous mountain visible from the portion of the Buller where Haast was when he named Mount Owen,

By Mr. *Adams*: Mount Travers is laid down on the map No. 2. It was named by my cousin. Mount Travers is correctly laid down on this map, and Mount Murchison also. Mount Francis is not laid down correctly on Stanford's map; it is on the wrong side of the river, and near the position of Mount Owen on Haast's.

By Mr. *Kingdon*: I am speaking of ten years ago. It is quite possible for my memory to carry me back to the time.

By Mr. *Moss*: I did not say Mr. Haast told me he named Mount Owen. I said my cousin told me he had named it, and showed it to me. I have seen Map No. 1, but never had my attention called particularly to it.

By Mr. *Kingdon*: I should say Mount Owen could not be seen from the Nelson Plains.

Mr. *Daniell*: Stanford's map was made before I was Commissioner. I know nothing about it.

Mr. *C. Elliott*: There were great demands for a map of the Province, and I was anxious to get one published. Mr. Fell was in Nelson at the time, and was returning to England, and I got from the office copies of such plans as I could obtain, as skeleton plans, which I intrusted to Fell, with instructions to give them to Stanford, to whom I had written on the subject. I remember that the plan given to Mr. Fell was very much of a skeleton plan. Afterwards, by permission of the Waste Lands Commissioner—I think Mr. Richmond—I got tracings made, filling up the skeleton made, and transmitted them by subsequent mails. I think they got the whole of the materials from me—I am sure, in fact, they did. I had no means of testing the correctness of all I got from the Survey Office. My attention was called to some errors in that portion of the country immediately on its arriving. I do not remember who called my attention. It was, I think, some one connected with the Land Office. There was one material error connected with one of the rivers. Not having any personal acquaintance with the country, it has passed my memory which river it was. It was some river on the South-east side of the Buller. I think other errors on the chart have been pointed out to me at different times, my name having been attached to the chart. The important fact I may state is, that the map is not a copy from any complete map in the office, but that it was sent home piecemeal, and put together in London.

Mr. *Lightband*: I was a Warden on the West Coast in 1865. I was furnished with Stanford's map for the use of the office. It was the only map furnished me. It was sent me by the Provincial Government. That map was the only reference with respect to making corrections in the boundaries of gold fields, and for general information of the miners. Mr. Kynnersley had also Stanford's map; no other that I remember seeing. Mine was the Grey District. I only determined applications for prospecting claims with reference to the boundary between the two Provinces—Canterbury and Nelson. I am not aware of any boundary shown on this map, except that between the Provinces. It was the only map supplied by the Provincial Government.

Mr. *Dreyer*: I have been resident about four years on the West Coast. I was well acquainted with the Wardens' offices. I was often in C. C. Kynnersley's office. Stanford's map was used by him. I never saw any other map of the Province, but of other portions of the West Coast surveyed by other surveyors down there. These plans were partly of the Grey District and of Coal Creek. I was there when Kynnersley drew the boundaries. He acted on the line shown in the map (one of Mr. Martin's) as the boundary of the gold field. He read over the Proclamation in my presence, and exhibited that line on the map as the boundary. Kynnersley did not say that the land in dispute was within the gold field, but he took the line marked red on the map produced by Mr. Kingdon. This was about sixteen months ago, latter part of July or commencement of August. The Proclamation is dated July,

\* No. 1 is the Superintendent's map.

1868. Mr. Kynnersley left office at the end of September. There was a man wanted information about the Owen Valley. Mr. Kynnersley said the land the man inquired about was within the gold field, as the boundary went by the River Hope.

Mr. *Broad*: I am a Warden and Resident Magistrate, Charleston and Brighton Districts. I had no occasion to use any map; the coast and a river, and a mountain range in the interior, define it so well. We have local maps, made by the local surveyor, as defining different districts, the boundaries between which are determined by these maps. The Government did not send me Stanford's map. I have never seen Stanford's map before.

By Mr. *Moss*: My appointment was subsequent to Lightband's and Kynnersley's, and dated from February, 1867.

By Mr. *Adams*: I was appointed in 1863, and transferred to Brighton in February, 1867.

Mr. *Lewis*: Mount Arthur is laid down from a point near the junction of the Wangapeka River with the Motueka. The peak is approximately ascertained by bearings and calculations. It is fixed by observation. It is approximately accurate with regard to the other features on map No. 4. Mount Owen is laid down on No. 4 correctly from the Admiralty chart. Its position on No. 4 is only an approximation. I scaled from different points on the Admiralty chart, and laid it on No. 4 to the scale of the latter. That is the only way I could do it. The scale on the Admiralty chart is very uncertain, because there is no fixed scale. I don't think it could be five or ten miles out. It might be two or three miles out, or even four: it is impossible to say. The scale of No. 4 is one inch to the mile. It might be two miles further to the east, but I don't think it is. Motueka River is traced from actual survey. The Wangapeka River is from actual survey, part of it from an old survey, part of it by Mr. Sinclair. I traversed the Wangapeka to the part beyond the junction of the Rolling River. If the green spot were taken as Mount Owen, the boundary line would cut through the land sold. I think if either of the other lines were taken, the land would certainly be beyond it.

By Mr. *Moss*: I believe Mount Arthur is within half a mile of the actual spot it stands on.

By Mr. *Adams*: The mountains Owen and Arthur, on Stanford's map, are not laid down from survey. There never has been an actual survey.

Mr. *Baigent*: I know the Owen District; I have leased land there. It is just at the base of what we call Mount Owen. We understood it was in the district of Mount Owen when we applied for the run. The mountain we call Mount Owen is pretty nearly situated as on Stanford's map. The run is about six miles up the Owen. When we have our back to Mount Owen, the most prominent mountain is the Murchison. The Murchison is then about S.W. There are some peaks on the lower ranges which may be those alluded to by Mr. Haast, but they are not so high as what we call Mount Owen. Many others besides. We have been in the habit of calling what I allude to Mount Owen. I cannot tell whether the land sold is within the line between Mount Arthur and Mount Owen. There is a track over the Mount Owen I speak of, cut by Mr. Clark, and recognized. I described the run at the Land Office as being the Owen Valley, the only open country there.

By Mr. *Adams*: The hill I speak of appears the highest of the range. The three peaks are about N.W. from the Owen—N.W. of its junction, on the west side; I should imagine the distance would be about two miles from the junction. There may be other peaks, but those are all I have noticed. I have travelled up and down the river many times. Mount Murchison is more conspicuous, but I cannot tell which is the highest, it or Mount Owen. I cannot tell the height of Mount Owen.

By Mr. *Burnett*: I have seen snow on these peaks. The tops of them are covered with scrub and wood in appearance.

By Mr. *Moss*: You can see the mountain generally known as Mount Owen from Nelson, and from the Waimea Plains. You cannot see any other peaks about the junction from Nelson.

Mr. *David Clark*: I am an old sawyer. I have been mining about fourteen years off and on. I was with Hochstetter when he visited the district. He asked me the names of the different hills. I said that I had heard that one was Mount Owen. I mean the hill that can be seen from Nelson Plains. I was afterwards engaged to cut a track. I accompanied Donald for that purpose. We went over the spur of the hill leading into Owen Valley. I told Hochstetter I had heard it called Mount Owen. There were men digging when I went over with Donald. It was ten years ago. I went over with Dr. Hochstetter, and the hill was then called so.

By Mr. *Adams*: I heard it from Musgrave, the surveyor. He was not up there with me. He told me about twelve or fourteen years ago. I was then surveying along with Musgrave when he told me this. I was with him surveying at Pigeon's Valley. He was surveying a bit of land for Mr. Smith. He did not tell me who named it. I think he took it off the Admiralty chart. That was the name he told me. I said I supposed he took it from the Admiralty chart, because it answers for it now, but I did not know it from the chart then. Now I take it from the Admiralty chart. I know the River Owen well. The Owen Mountain is N.E. nearly, where we stand near the junction. It has a great deal of snow at times. There was snow on it when I went to cut the line, but not all the summer. It was between six and seven years from the time I surveyed with Musgrave that I mentioned it to Hochstetter. I do not know Mounts Newton, Frances, Mantell, &c. I know the Blue Mountain and Mount Arthur.

Mr. *Thomas Fawcett*: I am a storekeeper in the Tadmor Valley. I have been there about ten years. I accompanied Mr. Hogg surveying. I know a mountain called Mount Owen. Certainly I can see it from my house. It is visible from Nelson. I have not been over the Buller. I have been up the Lake there. I should point out the peak to diggers going over the Buller to Mount Owen. I have known Mount Owen the last ten years. I don't know who called it so first.

By Mr. *Domett*: At the time I was at the Lake for the Sheep Association, fifteen or sixteen years since, I can't say whether it was called Mount Owen then or not. I could not say who named the Devil's Grip. I doubt it was old Mr. McRae who lived at Pitfure.

By Mr. *Brunner*: I am sure when I accompanied Mr. Fox I went to the Kawatere (Buller). Mr. Fox did not name any mountain the Owen. We named several mountains and rivers. Heaphy and Spooner named the Devil's Grip.

By Mr. *Adams*: I never knew or heard of any mountain being called Mount Owen but Haast's.

MONDAY, 20TH DECEMBER, 1869.

THE following witnesses were examined:—Mr. Daniell, Mr. Gully, Mr. Lewis, Mr. Pilkington, Mr. Noble, Mr. O. Curtis, Mr. Blackett, Mr. Dreyer, Mr. Burke, Mr. Tatton, Mr. L. James.

Mr. *Daniell*—by Mr. *Moss*: I did use certain words, reported to have been used at the meeting at Wakefield (read from paper).

Mr. *Gully*, recalled: Did you say in your evidence that you had no interest in the sale of the land?—No; I have an interest in the land. I was an official person acquainted with the auriferous land the day before the sale.

Mr. *Lewis*, recalled: I cannot say there is a range in the position at all, marked on No. 4.

Mr. *Henry Pilkington*: I am a miner. I have been ten years next February on and off Wangapeka. I know the Owen River and I know the mountain. I know the mount (Haast's), a high peak. I was prospecting when Haast and Mr. Mackay went down the Buller. Mr. Haast showed me a mountain from Nelson as being Mount Owen. I cannot identify the mountain on the map, but I know it from Nelson. The range breaks off at Black Valley. Black Valley begins near Lake Arthur, and continually ascends to Mount Owen. A range of mountains runs from Mount Owen to the river. Going from the Tadmor River, a track leads to the foot of Mount Owen. You go over Mount Owen and drop down into the valley of the Owen River. On your right as you go down there are broken mountains,—no continuous range, for a considerable stream comes down between them. I never heard any name for this stream. Very few diggers have been there, except when the rush was on six years ago. The mountain on the right hand, below this stream, is all black broken knobs and leading spurs. There might be a few patches of snow on the mountain, generally at Christmas, but not much I should think. I could not say what mountains you would see looking back from River Buller in the direction of (my) Mount Owen. I met Mr. Haast, I think in 1861, on the wharf. I brought a sample of gold from the Wangapeka. He was asking me about several points leading round Motueka way. I showed him several points, and I asked him which was Mount Owen. He showed it me, in a direct line—the mountain he called Mount Owen—from the old wharf in Nelson. I could show you the mountains on a very clear day. I never saw any other mountain from Nelson than that one. There are several mountains further on, but that was the one he told me of. He never expressed any doubt as to the mountains. He showed me this after asking me to show him the Crusader Mount, and different mountains that I knew. I am quite sure that the mountain rising from the Black Valley, over which the track goes to Mount Owen, is the one seen from Nelson, and pointed out by Mr. Haast to me. I also showed it to Mr. Long Wrey. Mr. Haast pointed it out from Nelson—not from the spot. It is a very peculiar mountain,—you must know it. Having seen it from Nelson, you must know it when there, because it is so peculiar. The peculiarity is, that it rises very suddenly from the Black Valley. It looks from Nelson like a high peak rising rather suddenly from a low range. I do not know the track he cut to Mount Owen, but I know there was one cut, I believe from Tadmor to Mount Owen. I have been over it, but not on the track. I guess pretty well where it is. The track goes to the foot of Mount Owen, then underneath it down to the river. If you go over Mount Owen you would have broken peaks, on towards the Karamea country. I do not know what are called the Marino Ranges. The country is so broken there is no regular range in it. I do not know Mount Donald, but I have heard there is one. I have been from Mount Owen to the Karamea country; I went over the Loadstone Mountain.

Mr. *Gully*, re-examined: That mark is a mere general one, showing there is a water-shed between the rivers running into the Buller, and those running into the Motueka—it means nothing more. Mr. Burnett has told me that the Marino Mountains are a huge mass of mountains rather than a range. Mr. Burnett never showed me any mountain he called Mount Owen, from Nelson. I have understood that the mountain we call Mount Owen that can be seen from here (we, *i.e.*, Mr. Calley, and those who take long walks), I have understood lately that it is not Mount Owen. I think the mountain we see from here is part of the range to which the last witness alludes. I have some remembrance of conversations with Mr. Calley and others. My experience consequently is, that Haast's Mount Owen cannot be seen from here; but theirs can, which I take to be what they call the Marino Mountains. This is only an opinion.

By Mr. *Moss*: I am a draftsman; I am not a surveyor. I was not aware, till of late years, that you could not see Mr. Haast's mountain from Nelson. I don't know that the range being clearly defined was a very important point in the purchasers' case. I don't see that the existence of the range favours the case of the purchasers. I do not assert that there is an unbroken range from the red spot to the green. I don't contend that anything but the surveys is correct; all the rest is sketch.

Mr. *Baigent*, recalled: I do not know any leading range between the red and green; it is a lot of broken country; there are valleys between; one is called the "Sandy Creek," and one the "Three Mile Creek." I call Pilkington's break the Three Mile Stream. There are some low peaks at the junction, but not nearly so high as the others. It is very rarely you see snow on the junction peaks in summer; snow is more often on the green mountain than the other.

By Mr. *Adams*: I know the Matiri; it is fifteen miles from the Owen. (?) The country is of the same nature. I do not know whence the Matiri takes its source. There is a mountain to the West, and broken mountains to the East. I don't (know) any name for the range between Mount Owen and Matiri. There is no distinct range between them. The mountains may be of the same or more height than the Fringe Hill. I have not the slightest doubt that the hill whence Mount Owen rises is much higher than any other. I have been living in the Owen Valley on the run. I learnt which was the mountain seen from Nelson from the description given by other parties, and knowing it to be in the same direction as our run. It is the only high range between here and the Owen Valley. It is generally known as Mount Owen by those who travel in that direction. Never heard it doubted at all.

*Henry Noble*: I am a miner. I have been about six weeks at the Wangapeka. I have been about the Buller about eighteen months. I am well acquainted with the district. I know Mount Owen—I have crossed it. I went right over the top of Mount Owen. Nelson is plainly visible from the highest



peak of Mount Owen; I saw the masts of the vessels in the harbour. I am sure the hills at the junction could not be seen from Nelson.

By Mr. *Adams*: I could not say how high the mountain was I went up; that was about six weeks ago. There was snow on the top. I do not know Mount Arthur nor Mount Murchison. I went over because it was the highest cut. I heard that three or four men had gone before me, and I thought that where others went I might follow. I went over it twice.

By Mr. *Domett*: I was told by different parties, and at the station, that that was Mount Owen. This was six weeks ago—since the discovery of Culliford's reef.

Mr. *Curtis*: Mr. Haast wrote out his narrative himself in the first instance, and then he got different friends, when they could spare time, to correct the language where it required it. I know Mr. Travers corrected a good deal of it. I corrected from one-third to one-half with Mr. Haast—as to English—the latter part of it, and I think Sir D. Monro corrected one part. This was in 1860. It was merely to correct any German idiom that would not be comprehensible, or any English grammar.

Mr. *Blackett*: I am Provincial Engineer; I have been a good deal about the Buller. I know Mr. Haast's plan made by Mr. Burnett; I have found it generally tolerably correct as a sketch map. I generally use a copy when I travel about the country. I remember David Clark and Robert Donald being sent to explore and cut a line from the Tadmor to the Lyell. They expected to find a short way to the Lyell. Donald expected to get to the Matiri, after crossing the mass of mountains in the centre of the island, but instead of that he got into the Owen. I never went over the track myself. From Clark's report I should gather that Donald's track crossed a range lying between the head of the Tadmor and the head of the Owen, which I should imagine to be a part of the Marino Mountain marked in Haast's map. I cannot say I particularly remember the mountain marked Mount Owen by Mr. Haast. The Mount Owen passed over by Clark, I should say, could not be the mountain marked on Haast's map as such. Clark was supplied with a tracing from Haast's map, to the best of my recollection.

By Mr. *Moss*: The map shows you can get more easily into Mount Owen than the Matiri, from the Tadmor. I depended on Clark's information as to a bend existing in the river. Mr. Adams put in Clark's report. (Read.) [The report seemed to show that the Mount Owen of the diggers, was the most difficult mountain in Mr. Clark's journey.]

By Mr. *Domett*: I have generally considered the mountain visible from Nelson as being the Marino Range, not Haast's Mount Owen. It is a subject I have never given special attention to. I never heard any remarks about the mountain visible from Nelson being doubted as Haast's before the Wangapeka question arose. I don't remember ever having mentioned Mount Owen in any report of mine to the Government.

Mr. *Dreyer* recalled: I don't know who the man was. He was going to dig on Mount Owen. It was at Westport. He met Mr. Kynnersley in the street. I was Member of the Provincial Council for the Grey District. I went with Mr. Kynnersley into the office of the Commissioner with this man after official hours. Kynnersley took the map and Proclamation, and read the Proclamation. He referred to this of which I have a copy (dated 8th of June). It had a lot of Proclamations bound up together. Kynnersley was a Commissioner for the whole of the South-west Gold Field of Nelson Province. I do not say it was that copy of the map; it was a copy of Stanford's map. I believe it was drawn with the back of his penknife. I never saw any other map than Stanford's at Kynnersley's, or any other office down there, except local maps of portions of the district.

Mr. *John Burke*: I remember Mr. Kynnersley, Commissioner at Westport, and I and a party of diggers were about starting up the Buller and Mangahari Rivers. I went to Mr. Kynnersley's office, and asked if he had a plan of that district. He showed me Stanford's map. I am certain of that; and pointed out the Inangahua and the places intended to go to, as near as he could on that map.

Mr. *Tatton*: A lease was applied for in Wangapeka District in the name of four persons, of whom I was one. It was in August or September, 1861. We carried on mining operations for iron and other minerals, iron-sand being our principal object. We did apply to purchase land of Mr. Robinson. He said he could not sell it, because it was on the gold fields round the Blue Creek, Nugget Creek, and Rolling River. It was known that there was gold in the district at that time. There were about sixty miners at work there. I produce a report I gave from the diggings (*Nelson Examiner*, 12th September, 1861; *Colonist*, 13th September, 1861), showing the district to be auriferous. I applied to the Commissioner of Crown Lands for a plan, showing this to be a coal and gold mineral district, by Mr. Commissioner Richmond, in 1863. The district includes the Rolling River, &c. The plan was furnished to me for the use of the Master of the Mint, in London, to whom I was a pupil.

By Mr. *Adams*: We applied for land to work iron-sand, &c., in the river. The last application was for a lease for mining purposes; this was granted. I don't know whether the lease was ever taken out of the office. It was in Captain Johns's possession. The lease became forfeited. I applied for a renewal of it after three or six months—I don't know which. I did not take out the lease, and it became forfeited. The party I was engaged with was broken up. This was in 1861. I applied for purchase in the early part of 1862 to the Superintendent, who said he could not sell it, because it was a gold district. I can only give his reply. We had three or four men under the last lease.

By Mr. *Kingdon*: The reason I applied in my own name was, that I had been played a trick. We did not keep the men at work. Captain Johns walked off with the gold and the plant too. He had some protection; I never had. I did not take up the lease at that time. The Wangapeka diggings were made a failure of. I did not think them a failure. I am not aware whether there have been applications since. The Otago gold fields breaking out took away the Grey mining population, which accounts for the applications to lease or purchase not being persisted in.

Mr. *James*: I commenced working at Wangapeka in 1860. A bonus was offered in 1858. I and others found a sufficient quantity, and applied for the bonus; it was paid to us—£100 to myself, and three others £25 each. There were about 200 men, in 1861, working there; they did well, most of them. I asked Mr. Robinson when he came up first; he said he could not sell. I did apply in words on the ground. He replied he could not, because it was gold-bearing.

By Mr. *Adams*: The conditions of the bonus were, that it should employ fifty men for twelve months. The Wangapeka is a large district, twenty or thirty miles long. I was on the Rolling River at that time; I worked there for three years; most of the men left.

By Mr. *Moss*: There has been a steady population since that time working for gold.

By Mr. *Domett*: Thirty-five or forty generally. I know where Mount Owen stands, a high hill on the East side of the Rolling River. I first heard Mount Owen talked of about 1860; I never heard any dispute as to which was Mount Owen until now. I don't know the Owen River.

By Mr. *Adams*: When I applied for the bonus, there were, I think, about 160 to 200 people; there were never above twenty or thirty more people there than when I put in my application for the bonus. I am clear as to the number of people there at that time; there were no more people after I wrote that application than at the time I write of. [The application says there were sixty men there at that time.]

By Mr. *Domett*: It must have been before I wrote that application that there were the larger number there.

Mr. *Pilkington* recalled: I was working on the Wangapeka at the date last witness mentioned; there were more than fifty men working for the time required by the conditions of the bonus.

TUESDAY, 21ST DECEMBER, 1869.

The following witnesses were examined:—Mr. Broad, Mr. Donald, Mr. Catley, Mr. Barnicoat, Mr. Daniell, Mr. Pilkington, Mr. Curtis, Mr. James.

Mr. *Charles Broad*: I am Resident Magistrate for the Nelson South-west Gold Fields. In the first week of November, by direction of the Government, I went up to Wangapeka to inspect the reef, to endeavour to obviate some difficulties which had arisen respecting the survey; I found that a number of men were on the ground who had marked off claims, and I took the names of those who had done so; at the same time those that had miners' rights produced them, and those who had not gave me the money for the rights, with their names. My object in taking down the names of those who had already marked out claims was this: I anticipated that the survey would have been proceeded with immediately, and would have been followed by the Proclamation of the Nelson Gold Fields; that it was very possible and very probable that a large number of land claims which had been pegged out would be outside the purchased land, and I was anxious to protect those miners who were there as against others who might be attracted there afterwards. At that time, I may say, I was not aware of the gap that existed between Culliford's Claim and Nuggety Creek; this is of importance, because the majority of the claims were pegged off in that gap, and would have been available if it had been declared a gold field. I was not aware when I first went up that there was that gap, otherwise I think I could have settled the claims, as there were very few others at that time. I did not take down these names as a Warden of the gold field, but merely to protect these men in the case of its being afterwards proclaimed a gold field.

By Mr. *Moss*: I was sent by the Provincial Government of Nelson; I did not go as Warden nor as Resident Magistrate. I took money for miners' rights; they were issued afterwards.

Mr. *R. Donald*: I never was employed by the Provincial Government to cut a track. Mr. Robinson, knowing that I had crossed from where I lived at the Tadmor, to the Lyell, several times, asked me if I would show the track. I said I would. He sent W. McGregor to me, who told me Robinson had sent him to go over the track I had cut. I told him I had never cut a stick of a track. Shortly afterwards he sent D. Clark, with two other men. I consented to go, and went. That was all the employment I ever had from the Provincial Government. I did know a mountain called Mount Owen at that time, and a long time before. I could not say from whom I first heard of it. I recollect when going up with D. Clark, coming in close to the Owen Ranges, Norris said, "This we shall call Mount Owen, on account of this steep fence." The Owen Range is the dividing range between the Dart and the Owen. I got Stanford's map since that. I recognize the mountain as at the top of the Hope, and the left-hand branch of the Owen. I did know at the time that these rivers had their source in this mountain. You can see the Mount Owen from the hills at the back of the hospital. You can see the mount from the junction of the Owen with the Buller; you see the mountain staring you in the face, you looking to the North and a little East.

By Mr. *Moss*: I know of no other mountain. Taking for granted peaks in that neighbourhood could be seen from Mount Rochfort, it is most likely that that mountain would be seen before any other.

By Mr. *Adams*: The Marino Mountains are not near Mount Owen. I cannot say how far; I don't think they are near the Owen River. I discovered the course of the Owen three years before that, both the East and West branches; the West comes up above the Wangapeka. On two occasions I had gone that way: first for water, second for gold. Some Maoris told me it was the Matiri; it turned out to be the Owen. I did not expect to go down the Lyell. I did not know what the name was till after I had come back.

By Mr. *Domett*: I never heard of any doubt as to that being Mount Owen until now. I have seen some of the evidence given here. As far as I recollect, Mr. Blackett recognized that as Mount Owen when I came back.

By Mr. *Adams*: Green Hill is the granite range between the Dart and the Tadmor—a long white range.

By Mr. *Domett*: Mr. Blackett was in his own office when he recognized the mountain. There are no mountains of any height between the green and red spots. The only other conspicuous one is between the Dart and Owen, to the N.W. of what I call Mount Owen. There is no other conspicuous mountain anywhere there that you could take for a marking point. I could not say how high Mount Owen is. I don't think the mountains at the junction are much higher above the level of the river, than the mountains about here are above the level of the sea—not very much. I have been six times about that spot, and down to the sea beach of the Buller. I know Mount Murchison. I don't know Mount Travers. I know where the Marino Ranges are, but it is so long since I was there, I can't say for certain. From Mount Murchison, or any of these mountains, I should think you would see both what I call Mount Owen and Mount Arthur too. From Mount Travers I can't say. It is all bush



between Matiri and Owen; you can't see anything except from the hill sides or tops. Until I went with Clark I had always believed the Owen to be the Matiri.

By Mr. Adams: I could see Mount Owen from the junction, or a little below it, of the Mangles. There is a large flat on it where you cross the river. You are bound to see Mount Owen thence, *i.e.*, what I call Mount Owen. I know of no other. Mount Owen is something like a sugar-loaf. The pencil sketch is like what I mean by Mount Owen, as seen from Nelson. There is snow on all these ranges in winter. I have seen it in the middle of summer.

Mr. Catley: I should state that this morning a map was discovered in the Survey Office, evidently drafted by Mr. Richmond, and upon speaking to the Superintendent upon the question, he wished every information given to yourself, and I was instructed to call upon Mr. Richmond to ascertain the source of his information. I found that in 1863 Mr. Rochfort had been employed to explore for the Government upon the dividing range between the West Coast and Nelson, and that to accompany his Report, upon his return, Mr. Richmond assisted him in compiling a plan, and that at Mr. Richmond's house was lying this tracing, which is the one he (Mr. Richmond) made at the time from information furnished by Mr. Rochfort. It will be seen that Mount Owen, as shown upon this plan, is called the Mount Owen Group, and in Mr. Rochfort's Report in *Gazette*, 11th April, 1863, it is called the Mount Owen Cluster; that although the plan of Mr. Rochfort (which Mr. Richmond explained as being entirely sketch work) shows the Mount Owen Group at the head of the Owen River, it shows it at the head of the right-hand branch looking down, and clearly makes the Rolling River outside the then gold field, or outside a line from Mount Arthur to the Owen Group. Date, April 13, 1863. It is evident the compiler of this map did not take as Mount Owen that laid down by Haast or Burnett, but it is equally evident he did not take Stanford's.

By Mr. Moss: The broad position, as taken in Stanford's, is the same as the other. He puts his Mount Owen distinctly to the West of the Rolling River.

Mr. J. W. Barnicoat, by Mr. Kingdon: I think it was on a Monday, about half-past 10 a.m., that I received notice. It was the day on which the Proclamation withdrawing certain land from sale was issued. I would have attended the previous day if I had received notice.

By Mr. Moss: I am quite certain as to the time. I received it on the road coming into town. It was not nearer 9 o'clock, I am quite certain. I had not time to go to the Provincial Buildings before the opening of the office. I went direct to the stable, and thence to the Land Office. It was then about twenty minutes to 11 a.m. We agreed at once to the withdrawal, after a very short discussion. It is hard to say, if it had been done in my absence, whether I should have agreed to it. Probably I should. I should have a right to object. The line in Stanford's map is more consistent with the Proclamation than a similar line in Mr. Haast's map. [Mr. Moss quoted a passage\* against Stanford's map being an "official map," and asked, What is the meaning of the word "authentic," and what is it applied to?] I meant "accurate," "trustworthy." I looked at the maps carefully. It is more consistent with that part of the Proclamation. I was not aware that Stanford's map had been issued to the Wardens on the West Coast. Had I been aware it would have been made some difference in my estimate of its trustworthiness.

By Mr. Adams: I think No. 1 does not agree so well with the Proclamation. I allude to the line from Mount Owen, which is described as the "ranges eastward."

Mr. Daniell: I must state first that I was not aware that Rochfort's map had been issued to the Wardens. Mr. Curtis stated so also. They were issued under a previous Superintendency. I can only state my view of my duties under the Land Regulations, without pretending to explain what the law on the point is. The Province had been at considerable expense in sending out parties to explore for gold; and therefore, when a miner came, I considered the Government were bound not to allow him to go away without the best protection I could give under the circumstances, and I suppose every one of the miners would have wished the same. I felt just as anxious as any one could be next morning to stop the sale as quickly as I could. There are two sections which provide for the sale of land without further reference to anybody. The thirty-second section, which provides \* \* \* and that which provides that after the auction all land not so sold shall be open to be taken at any moment ("may be purchased by any person"). This is one of the fixed price clauses. In section 27 the upset price is fixed at from 5s. to 40s. per acre; and the idea under the thirty-fifth section is, that any one after prospecting about the country can if they please take any land at 40s. per acre—people wishing to settle having always complained of the risk of having to go to auction; so the Legislature met the case by giving them the option of purchasing at fixed prices. If I thought I could have suspended the operation of that clause (135) by myself, without exposing myself to legal damages, I should have done so of course. I consider that if the Commissioner of Crown Lands declines to put that clause in operation, he does so at his own risk. There is a proper way provided for suspending its operation; and in the case of one of my predecessors (Mr. Domett) who had declined to sell land to a gentleman who had thought it a good speculation, he was proceeded against in the Supreme Court, and a *mandamus* issued compelling him to sell and receive the money. I did not feel prepared at all on that morning to run the risk of subjecting myself to an action at law. Had I had the slightest idea of the magnitude of the interests involved, I might have made my own choice. I should most certainly have taken the risk had I done so. I would have allowed them to leave their money, and then have left them to their own remedy, trusting to the Government to have borne me through, though I consider the Waste Lands Board has nothing to do with the case till I bring it before them. \* I received the applications the same day as the sale took place in the afternoon †

Mr. Catley here read the application—"On the opposite," &c., signed "C. Everett." § This is in Mr. Brunner's writing. I did not see it written, but they brought it to me. This is exactly as it was brought to me. It has not been altered since I received it. It has been in the custody of Mr. Daniell and myself, and I can also say I particularly noticed the application on the other side of the Nuggety Creek, and was surprised at its being on the other side. We were so busy there was no

\* From a Minute by the Waste Lands Board. † That is, the line on Stanford's map.

‡ Mr. Daniell here alluded to a charge that the applications had been tampered with.

§ This was the application leaving the "gap" between it and previous applications.

time to make remarks; there was a rush at the time. I can swear to this application not having been altered since the morning of the 14th.

Mr. *Daniell*: I make a distinction between Culliford's application and those of the others. With Culliford, my desire was to help him; but I had no desire to help persons speculating, and if I had seen my way open to refuse other applications, I would have done so. Mr. Thomas Osborne applied for ten acres at the mouth of one of the rivers, (Wanganui, on the West Coast, a small stream,) and in that case I demurred to letting him purchase that same day that he applied, because I wished to refer that special case to the Waste Lands Board. My reason was this: to the best of my recollection, it was shortly after Karamea Township had been sold, and I think Mr. Culliford suggested we ought not to allow the mouths of these rivers to be sold, as they would be valuable as village sites. Mr. Askew tendered his money on his application, a cheque paid over, which I held. Whether it was the same afternoon or not Mr. Brunner said "If I was Askew I'd compel you to sell," or words to that effect, I do not recollect. I did not sell it; and then the Board reserved it. I did this on my own responsibility. I consider in so doing I was laying myself open to an action. There were no steps ever taken.

By Mr. *Moss*: I could have done the same in this case as in Askew's if I had chosen to run the risk. This case did not occur to my mind on the morning of the 14th. No sales of land were refused previously in that district.

By Mr. *Kingdon*: I wished to give him, and did every one else, the opportunity of proving that he had done all he could on his side to effect a purchase,—therefore I let him tender, and received his money.

By Mr. *Moss*: In this case I had already taken Culliford's application, and I had no excuse for refusing theirs. I would not take upon myself to refuse all the others.

By Mr. *Kingdon*: I know that gold had been found in Wangapeka (claim 24). It was classified as rural, as it was not in the other classes (not as mineral), because the Waste Lands Board desired not to shut it up from selection, which would have been the case had it been classed as mineral. I know that the Waste Lands Board had power to classify the land. I do not remember when Culliford applied. To the best of my recollection it was about the middle of the day of the 13th. He purchased the land then. We could have sent for Mr. Barnicoat had we the slightest idea of the urgency of the case. I thought partly that by the time Mr. Barnicoat came down next morning, that nothing would have transpired, from Culliford's extreme desire for secrecy. I do not think I had power to refuse the purchasers next morning. I took the responsibility upon myself in the other case. It was in my knowledge for ten years that that had been a gold field. I state distinctly that it was a gold field which would support a certain number of persons—a poor man's gold field.

By Mr. *Moss*: The land, as I said before, was not classed because it would have been shut up. I had no such knowledge of the locality of the gold until Culliford came to purchase. I had every reason to believe that if Mr. Barnicoat came into town next day there would have been time enough for the withdrawal.

By Mr. *Adams*: It was in the discretion of the Waste Lands Board what land they would class as mineral land. There had been successive Administrations which had abstained from classifying it as mineral land. At the time of this sale, this land stood as rural land.

By Mr. *Moss*: I never gave protection to any miners before that.

Mr. *Pilkington*: I came down from the Buller last March, and I asked the Superintendent which way I could get protection, as I had been constructing a water-race for six months. Mr. Curtis told me he could give me no protection just then, but he would see what he could do by-and-by, and let me know. One of the Members of the Provincial Council, with Mr. McLean, came to see what work I had done; said he would bring it before the Council to have it made a gold field. I have heard nothing since. I applied to purchase or lease five acres, if I only could get protection for the water race. I spoke to Mr. Brunner on the 8th of last March; I said I knew there was gold on the ground, and had been told by Mr. Robinson and Mr. Saunders that I ought to have taken that opportunity to buy it. I was not permitted to buy or lease the land—got no protection. I know a man named J. P. Anderson. He had a written protection—a document from Mr. Daniell. He wanted protection for water races.

Mr. *Curtis*: I do not think that I have anything to add to what Mr. Daniell says respecting the not making Wangapeka a gold field. It was also the wish of the Provincial Council it should not be made a gold field; the land was not considered rich enough. It would not contain more than fifty persons. The Provincial Council never expressed any formal opinion either way, certainly none that it should be proclaimed a gold field. I was saying, about forty to sixty persons have been the settled population there,—some cultivating land. The policy of the last three Superintendents, at all events, has been to get the land gradually settled, by inducing people to buy small sections upon it, or to lease it under the Agricultural Leasing Act. Within the last two years, since I have been in office, scarcely any land has been sold there—perhaps twenty acres, or something of that kind. Before I came into office a good many small sections were sold. I attribute the fact of not much land being sold there, to the operation of the Nelson Leasing Act. Considerable blocks of land have been sold under that Act. As to classifying the land as mineral, the effect would have been to throw it open for sale to a greater extent and in a different way, and also I think, to stop the mining for gold. I am not quite clear as to that, but I think it would. As to protection for miners, I have always told them as it was not a gold field we could not authorize mining, or give them any protection, but that they were at liberty to mine; and that in the event of any cause arising, or discoveries being made, which would make it desirable to proclaim it a gold field, I would take care to protect them as far as possible. I do not recollect Mr. Pilkington's application; it is new to me as far as my memory goes, except as to application to purchase, which he could not have done. He applied for protection no doubt, and I answered him as above. As to the construction of "The Waste Lands Act, 1863," this land had not been classed under either of the three first classes, and was therefore rural land. The fact of its containing gold does not affect its being rural land in law, unless it is in some way withdrawn from ordinary sale. By the thirty-fifth section of the Leasing Act, rural land is open for sale by free selection at £2 per acre. I understand

the clause to mean, that any person can buy any piece of land he thinks proper which is open for sale as rural land at £2 an acre, and that on his tendering his money the land is his. There is no discretion whatever given to the Commissioner. Any discretion on the part of the Commissioner of Crown Lands is expressly excluded by the provision for the withdrawal of land. Any discretion to the Commissioner of Crown Lands was intentionally excluded. The Act provides, by section 9, the mode in which it may be withdrawn from sale. The Provincial Council which passed the resolution on which the Act was framed, have always been averse to giving any discretion to the Commissioners, because they have always thought, and I think myself, that doing so would be opening a door to a corrupt administration of the waste lands. The Provincial Council were not averse to exercise of discretion by Waste Lands Board. I think the Provincial Council would have been averse to the Commissioner of Crown Lands exercising a preliminary discretion, even though necessary to the exercise of discretion by the Waste Lands Board. I think the Act clearly requires this, and that this was the intention of its framers. It is a choice between two evils; the question is, which is the smaller one? In Otago there were loud complaints of the exercise of this discretion. What I have said as to discretion under thirty-fifth section equally applies to section 32—*i.e.*, he cannot withdraw land from sale under that clause any more than under the first at his own discretion. The decision of the Supreme Court in the case in which you were concerned appears to me to apply exactly to this case. I recollect some further circumstances when the gold field at Collingwood first broke out twelve years ago. Application was made to you to purchase a considerable block of land,—another case altogether. You refused; but on its being suggested to you that the law would compel you, you did sell. It was about one week before Dr. Renwick applied. I was one of the purchasers. You then took the step of notifying that all the rest of the land would be withdrawn. Then came Dr. Renwick's application, and the appeal to the Supreme Court. These cases were fully in our minds when this sudden rush for land arose, and mainly influenced me in advising, and Mr. Daniell in acting. If we had had any sufficient proof of the discovery of a quartz reef of which we were merely informed by a person of whom we knew nothing at all, and who merely produced specimens which might have come from anywhere, we should have taken steps to have a meeting of the Waste Lands Board for the purpose of withdrawing the land that afternoon. It did not occur to us at all events, that anybody would think of buying land without some corroboration of the report. I certainly should not have been disposed to risk £5 upon it myself, and I did not think other people would; for I considered that the next morning would be quite time enough to take that step. Could I possibly have foreseen the difficulties that have arisen, I should have asked Mr. Daniell to take the responsibility upon himself, and, with the consent of the Executive Council, have guaranteed him against the consequences of illegal action. I allow there may be cases in which a Government might take upon itself to override the law, but it should only be done in cases of great emergency, and there was nothing in the circumstances of the purchase to lead me to suppose such an emergency had arisen.

By Mr. Moss: I do not know that late Governments have refused to sell land in this very district. I was not privately informed, a week or two prior to Culliford's application, that there was a reef likely to be found in this district. Mr. Baigent did show me some specimens, but they had no connection with any reef that I know of. I had a good deal of faith in Culliford. A correspondence is going on with the General Government on the subject of the law in this case; Mr. Domett has the correspondence. I have no knowledge it was within my power to rescind this sale; my knowledge was it was not in my power. I think the actual laying down of money amounts to a purchase. I have heard of the case of money returned from Mr. Daniell to day, but I consider it was an illegal act, and that he was liable to an action for damages. [Mr. Moss here read Attorney-General's opinion as to gold the property of the Crown.] I knew of this. A notice was issued by Government and then rescinded. I was in Wellington; it was done at my request. I have no interest directly or indirectly in any of these purchases, but I have an interest in some of the races in a public company that has been formed.

Mr. L. James recalled: Mr. Robinson told me it was auriferous land, and for that reason refused to sell it; this was in 1861.

### No. 30.

#### Copy of Mr. DOMETT'S Decision on the INQUIRY.

THE inquiry into the Wangapeka Land Sales having terminated, I have determined upon the rather unusual course of giving in public the conclusions I have come to upon the subject, before I have had an opportunity of submitting them to the Government in the form of a report—which, no doubt, would be afterwards published—because I think that by so doing all persons immediately interested in the question, will be the sooner enabled to decide upon any ulterior course they may think it desirable to take, in order to obtain an authoritative and definite settlement of their respective rights in the matter, which, as I have more than once already remarked, can only be given by the Supreme Court; and because the excitement caused by the agitation of this subject will thereby, it is to be hoped, be the sooner allayed, and the impediments to the pursuit of a most important and beneficial branch of industry be the sooner removed: these being the objects, I presume, the Government had principally in view in causing the inquiry to be undertaken.

I propose to take up the points of inquiry in the same order in which they have been investigated, giving the results produced upon my own mind with regard to each as briefly as is consistent with clearness, without attempting to detail, where facts are concerned, all the evidence upon which I have founded my opinion; to do which would occupy too much time, and perhaps might so overlay the subject as to risk its being made unintelligible—at least in a *viva voce* address of this kind. The evidence has been, or will be, published in the completest form possible, and is, I think, fortunately of such a character as to lead to not much variety of opinion as to the conclusions it warrants.

I. In the first place, then, we inquired into the transactions that took place respecting the land sales. The principal objects to be ascertained herein were:—

Firstly: Whether certain officials in the employ of Government, who were amongst the purchasers of the land in question, made any improper use of information given them by their position, so as to obtain any undue advantage over the rest of the public? and

Secondly: Did the Waste Lands Board exercise all the promptitude desirable in the withdrawal of the district containing these lands from sale, under the Waste Lands Act?

With respect to the first question, we have examined every single official, without one exception, whose name occurs on the list of purchasers. They were examined, cross-examined, and recalled for re-examination, until every question which the sagacity or ingenuity of those whom I may call the counsel on both sides of the question could devise, to elicit the fullest statement of all that took place, had been put and replied to. And I must say that it appears to me to have been made abundantly evident—both that no individual in the Government employ obtained, by any undue means whatsoever, any particle of information upon which he acted in putting in his application or making his purchase, and that the information he did obtain was got from a source to which all the public had equal access, and entirely outside the Government offices. This was proved by the evidence given in the most direct, straightforward, candid, and consistent manner by the officers themselves, and by the avowal of Mr. Culliford, the miner, that he himself had authorized Mr. Everett to make the information as to the discovery of the position of the reef as public as he pleased, he (Culliford) having secured his own position by the purchase of the first piece of land sold. It was proved that this information was given in the public room of an hotel the evening before the purchases were made.

With respect to a special piece of information, which was the subject of much discussion, viz., as to the locality of a second spot, where the reef, I presume, reappeared—at all events, a spot a little distance from the first series of sections applied for—it was clearly shown by Mr. Brunner (who himself, moreover, was not subject to any real or supposed obligation to act in a different manner from that admissible in any other individual of the community, as not being a Government official in the ordinary sense), that Culliford himself gave and dictated the very words of the description which left a gap between the lands previously applied for and that now specially alluded to. It was shown too, with respect to Mr. Sharp's application to purchase (which I more particularly allude to because he is the Government officer in the most important and responsible position of any concerned), that the application was put in by another official without his knowledge, that he expressed disapproval of the proceeding, applied at the Land Office to have his name struck out of the application, and was told that it was contrary to the rules and could not be done, or in words to that effect. I do not think anything more can be required from a gentleman in his position than that; and his sincerity need not be doubted, when his assertion, which was not disputed, is considered that he knew of the reef the evening before the sale, *i.e.*, on the evening when the news was divulged at Everett's hotel, and abstained from taking advantage of his knowledge as he easily might have done without suspicion, by causing any other person, not connected with the Government, to put an application in his name.

Government officials, it must be admitted, have the same right as the rest of the public to purchase land, provided they take no advantage from their position which the others are deprived of; and I do not see that they have laid themselves open to animadversion on the present occasion, except—which is more a matter between themselves and the Government of the Colony than between themselves and the public—in so far as it would decidedly be considered inconsistent with the duty of an official to the Government that employed him, to take any steps that might tend to embarrass the Government, or throw difficulties in the way of its administration of public affairs. In the present case, it has not been shown that they could have anticipated or could have foreseen this; and it would doubtless appear to them—if they considered the point at all—that, setting aside mere prejudice against themselves as officials, such embarrassment would be equally caused whether they themselves were or were not among a number of individuals whom the law allowed to interpose between the mass of the public and the opportunity commonly supposed to be given by that law to the latter, of acquiring certain beneficial interests in lands of an auriferous character.

Secondly, with respect to the degree of promptitude exercised by the Waste Lands Board in withdrawing the land from sale, I think it cannot be denied that it would have been quite possible for the Board to have so withdrawn it before the morning on which the sale took place. Indeed, both the Commissioner of Crown Lands and His Honor the Superintendent allowed that could they have foreseen the rush and the excitement that actually took place, they would have taken care the meeting of the Board should have been held the day before. It was quite physically possible, I say, to have held the meeting in time for this. The inquiry has, I think, elicited the facts in explanation, or I may say in excuse, or at least in palliation of their apparent negligence in this respect, that on the 11th and 12th of October, the Provincial Secretary, Mr. Greenfield, the Commissioner of Crown Lands, Mr. Daniell, considered that they had no such knowledge of the existence, and none at all of the locality, of the reef Culliford said he had discovered, as would have justified them in requesting the Superintendent to call the Waste Lands Board together; that, on the 13th, when Culliford first made distinctly known where the reef was by putting in his application, the Commissioner was chiefly occupied with the idea of giving him protection in his discovery, and was indeed beating about the provisions of the Waste Lands Act to find how to do so; and that, lastly, he was misled by Culliford's apparent anxiety to keep the matter secret into the belief that he would not divulge it; and consequently, as he could trust himself and the Receiver of Land Revenue to do the same, no urgent necessity existed for securing the attendance of Mr. Barnicoat and the other members of the Waste Lands Board in town that evening. There is no doubt that this is very much to be regretted; still I cannot but consider that the inquiry made it unmistakably apparent that if the Commissioner was in error herein, it was entirely an error of judgment, and not of motive or intention—an error very naturally fallen into, and not deserving of any very severe reprehension. Indeed I must say it appeared to myself that the Commissioner was led into the course he took rather by too conscientious a desire to do his duty, and a very proper anxiety to secure to a miner, whose discovery had put him in the position of a benefactor of the public, what he (the Commissioner) thought was equitably due to him, than by any other motive whatever. And I am happy to state here in public, both of that gentleman

and of Mr. Catley, the Receiver of Land Revenue, that my former acquaintance with them both, for a period of six years, during which I was in daily and familiar official communication with them, would have been sufficient to convince me of their being altogether incapable of abusing their position, by seeking any personal advantage through a dereliction of their public duty, even without this investigation, which has tended to show the correctness of my opinion. I confess to having come to the inquiry with this much bias in their favour, and I am glad to be able to say that I think the inquiry shows it was not an improper or unjustifiable one.

II. That part of the subject being determined, I come to the next in order, viz., the legality of the sales themselves. And first, as to the question whether the land was within the gold fields boundary or not. This reduced itself to the single point, What is the position of a straight line drawn from the mountain named Mount Arthur and the other called Mount Owen? The words of the Proclamation of the gold fields boundary not being sufficient to determine this, it was necessary to have recourse to some plan of that part of the country.

The Proclamation, it should be observed in the first place, refers to no plan whatever. There is therefore, perhaps, none which can be taken or considered as an essential part of it, or as having the same relation to it which a plan on the margin of a Crown Grant has to the description in the body of the grant.

The evidence of the official gentlemen concerned in the drawing up of the Proclamation showed that the map actually referred to, or at least the one on which the supposed boundary had been marked in colour, was a map usually kept in the office of the Superintendent. But, unfortunately, it was also shown beyond doubt that the position of Mount Owen on this map could only be regarded as entirely erroneous. There appeared no shadow of authority for its position on that map; it was declared by the principal draughtsman and others connected with the Survey Office, that the only two maps previously made and existing in the office, placed the mountain in an entirely different position. The only way, in short, in which the mountain's removal to its position on the Superintendent's map, could, after much stringent importunity of examination, be accounted for, was by the presumption of an accident—that it got accidentally shifted—the accident being wholly unaccounted for. This seemed to deprive that map of any pretension to be considered as having any authority in the matter.

Of the other two maps previously made, one was a copy of Mr. Burnett's, made to accompany Mr. Haast's report of the journey upon which he named a certain mountain after Professor Owen. This map, no doubt, is entitled to great consideration, as indicative of the locality of Mr. Haast's Mount Owen. And the evidence of Mr. Alexander Mackay, who accompanied Mr. Haast on his expedition—though he was not present on the day Mr. Haast named the mountain—was very positive as to the mountain marked on this map being the one so named by Mr. Haast. Mr. Haast, moreover, in one or two passages of his Report—particularly at page 75—specially distinguishes his Mount Owen from the mountains known as the Marina Ranges, among or close to which it is placed on the map, and would be situated, according to the evidence to be noticed presently. Mr. Haast, at page 75, says:—"The general features of these chains, named by Mr. James Mackay the Marina Ranges, are similar to Mount Owen and Mount Mantell, which form their isolated extensions towards the South," thus clearly alluding to them as separate mountains; though, as I understand his words, as forming different isolated parts of one general but broken chain.

At page 74, he also distinguishes between the Marina Ranges (which must be the mountains alluded to as the "high, rocky ranges," where the River Owen takes its rise,) and Mount Owen. Again, Mr. Mackay very positively declares that from the spot, or neighbourhood of the spot, upon which Mr. Haast stood when he named the mountain "Owen," he could only see the mountain set down as Mount Owen on Mr. Burnett's map.

On the other hand, I cannot but confess that, looking at other parts of Mr. Haast's Report, it seems to me either that Mr. Haast, when describing Mount Owen from a great distance, must have had in his eye the Marina Range, or a mountain close to that range—or else must have indiscriminately or perhaps unconsciously, applied the name Mount Owen to the mountain of that range, as well as to that set down on Mr. Burnett's map. I think so, partly because Mr. Haast, at pp. 11 and 12 (the same leaf of his Report), denotes Mount Murchison as a "splendid mountain, about 5,000 feet high," and Mount Owen as "three rugged peaks rising to a height of 7,000 feet, still in parts covered with snow," 2,000 feet higher than Mount Murchison. And at page 55, describing a grand panoramic view from Mount Rochfort, near the mouth of the Buller on the West Coast, he describes "the rugged peaks of Mount Owen as appearing over the bold unbroken outline of the Lyell Mountains." Now, if anything was made clear by the evidence respecting this locality—especially by the apparently excellent evidence of Pilkington and Donald—it is, that the peaks or mountains in the position set down by Mr. Burnett for Mount Owen are very inferior among those ranges—are, in fact, not higher above the river-level than the Wakapuaka hills above the sea in the neighbourhood of Nelson, while the great conspicuous mountain, or group of mountains thereabout is at the head of the Owen River. Then we had evidence that Mr. Haast pointed out the Owen Mountain as visible from Nelson. All this seems to point to the more than probability either that Mr. Haast sometimes alludes to the high mountains between the Tadmor and Owen, at the head of the latter, as being called Mount Owen, or that when he first saw the mountain, he in fact saw all the range so foreshortened that the peaks of the latter mountain were mingled in appearance with those immediately before him.

But on the next day of the inquiry, a new discovery (not of a mountain, but of a map,) was made in the Survey Office; and this turned out to be a most important map—no other than one made by Mr. James C. Richmond, when himself Commissioner of Crown Lands, and regularly signed by himself, to accompany or elucidate a journey made by Mr. John Rochfort. On this map, Mount Owen has become the "Owen Group," and is placed, I think, as nearly as possible in the position given it in Stanford's map. Now this map is dated in Mr. Richmond's handwriting, "April 13th, 1863, to accompany Mr. Rochfort's Report." There is conclusive evidence, therefore, that Mr. Richmond and Mr. Rochfort considered the position given it on the map as the correct one, and I presume the one intended by Mr. Haast. The map, or rather the original tracing which is signed by Mr. Richmond, is

also, I think, conclusive as showing in what the bestowal of the name of Owen upon the mountain commonly called so by persons settled in or acquainted with the locality, originated. I think it must be concluded that both Mr. Rochfort and Mr. Richmond gave their authority to the location of Mount Owen on the spot appropriated to it in Stanford's map, and that Stanford's map was constructed on this part of it from their plan.

Then there occurs the question: The newly-discovered tracing, having this high authority at so early a date as 1863—the mountain it names Mount Owen being abundantly proved to have been generally called so by residents in and visitors to the spot ever since, and being apparently the one several witnesses have declared to be visible from Nelson—is it not as reasonable to interpret the Proclamation by this map, and to consider it of as high authority as Mr. Burnett's (which for the reasons I have given above seems a doubtful one, even as illustrative of Mr. Haast's Report), or even of higher authority than the latter? The map in the Superintendent's office being out of the question (except as evidence of intention), is not this map, signed by the Commissioner and adopted by the public, to be considered as the one by which the Proclamation ought to be interpreted—perhaps all the more for its being one of later date and recognized, by due authority at a time more immediately preceding the issue of the Proclamation?

I confess I think all these considerations are sufficient to make it at least a question of great doubt which map ought to be taken as authoritative, and consequently which line ought to be considered as the true one under the Proclamation. It has also to be noted that the internal evidence of the Proclamation—that is, the character of the boundary line, as it would be given by the words of the Proclamation interpreted by Mr. Burnett's map—which would be very awkward, and unlikely to be taken as a boundary—is almost conclusive against the latter map being adopted as the decisive one.

Lastly, it being then doubtful which map should be taken as illustrative of the Proclamation, it remains only to remark, that the boundary line drawn from Mount Arthur to the Mount Owen, or the Owen Group, as shown by Stanford's map, and by Mr. Richmond's tracing, would probably, or possibly, cut through the land sold. Only an accurate survey, then, would determine with absolute certainty upon the relative positions of these lands, lines, and mountains towards each other.

I may observe here, that if the evidence of the intention to exclude Wangapeka—about which there seems to be no doubt—were to be admitted as sufficient to decide the proper interpretation of the Proclamation, the same rule must afterwards be applied to the interpretation of the land law, which would, I think, operate very decidedly against the construction put upon that law by the Board. I prefer to leave out this consideration in both cases.

I cannot, therefore, pretend to pronounce a positive opinion upon the point whether the boundary of the gold fields includes or excludes the lands which have been the subject of inquiry.

III. The conclusion to be obtained respecting the boundary line of the gold fields not being such as to settle the question of the legality of the sale (as it would have done could it have been determined that the lands sold were within that boundary line, in which case the lands would not have been saleable under the Waste Lands Act), it was necessary next to inquire whether the land, if outside the gold fields, was such, or so circumstanced, that the sale of it was illegal or otherwise, on other considerations. In other words, the inquiry may be reduced to these questions: 1st. Was the Board bound to withdraw the land from sale? 2nd. If not withdrawn, was the Commissioner bound to sell it, or could he legally do so?

Now it cannot be disputed that the principle which has been adopted as the leading one in legislating upon auriferous lands has always, as a general rule, been that such lands shall not be allowed to fall into the hands or possession of private individuals, but shall be reserved to be dealt with on some plan or regulation which will admit the whole public to a share in the working of them. The object has been, therefore, to withdraw such lands from the operation of provisions authorizing their sale, and to bring them under the Gold Fields Act, under which the fee-simple of the law is not parted with, but a right to work for gold is given to every one equally who applies for it.

This is undoubtedly the universally recognized principle, which with very few exceptions our Legislature has acted upon. The Gold Fields Acts have always begun by taking auriferous lands from the operation of ordinary Waste Lands Acts. It is true there is a contrary provision in the Otago Waste Lands Act, running in the teeth of the provisions of the Golds Fields Act, allowing the Governor, notwithstanding the latter Act, to sell lands in gold fields. But the provision has, I may say, always been looked upon as so extraordinary, its introduction as so unaccountable, and its character so objectionable, that it has been allowed after deliberation to remain a dead letter in the Province it related to. The other apparent exception, namely, the sale of lands by purchasing clauses in gold-mining leases, is not inconsistent with the above principle. But in the Nelson Waste Lands Act a special and exceptional provision is contained, which allows of the leasing and even sale of auriferous lands not included in gold fields. The rule would have been to have included such lands in gold fields when known to be auriferous. But, as has been explained by the Commissioner of Crown Lands and by His Honor the Superintendent, certain gold fields at Nelson, of which Wangapeka is one, having been found to contain gold—yet not in sufficient quantities to attract a large population of miners—it was thought desirable to keep those lands open for settlement, and therefore for sale to persons who might carry on farming and gold digging simultaneously—making wages in one way or other in what was called a "poor man's diggings." But around the exceptional power of selling gold lands, the Legislature throws very considerable precautions, showing a jealous care lest they should be parted with too easily. Accordingly, the seventieth section of "The Nelson Waste Lands Act, 1863," after giving the Board power to lease at 10 per cent. of the assessed value of the lands, provided that no such lands shall be valued at less than £10 per acre, and that no lease shall be given until the lands shall have been offered for sale by auction at that price; the object of this provision apparently being still to keep the ordinary or more valuable gold diggings under the gold fields laws, *i.e.*, open to the whole public, and that none should be allowed to fall into the hands of private purchasers, unless they have been proved not to be worth £10 per acre by submission to sale by auction at that upset price.



This seems to be the intention of "The Nelson Waste Lands Act, 1863," with reference to the disposal of all auriferous lands, whether rich enough to be brought under the Gold Fields Acts, or only such as have been called "poor man's diggings."

How then was it that the land in the present instance, not being declared a gold field for the reasons above given, was not dealt with under the provisions intended to apply to auriferous lands left out of gold fields?

The evidence showed that the object of the Commissioner of Crown Lands was to give, if possible, protection to the discoverer of the reef, Culliford. Being unable to give it under the provisions last alluded to, the Commissioner fell back upon the regulation for the classification of lands, under which he came to the conclusion—and acted upon it—that the land was simply rural land, and could be sold as such. It is necessary now to see what the law is regarding this matter of classification.

Section 24 of the Waste Lands Act is to the following effect. The Board shall classify the lands of the Province under four heads, that is to say:—(1.) Town land, being sites intended for towns or villages. (2.) Suburban Land, being land in the neighbourhood of such sites. (3.) Mineral Land, being supposed to contain minerals of value. (4.) Rural Land, being land not comprised in any of the foregoing clauses. Provided that the Board may from time to time, if they think fit, alter the class under which any land is classified, and remove it from the schedule of lands for sale, for re-assessment accordingly; but every such alteration or removal shall be notified, under the authority of the Board, upon the Schedules in the Land Office.

Now, to a superficial reader of this clause, it would no doubt appear that the Wangapeka land—being so clearly land "supposed to contain minerals of value"—because it is notorious, and has been shown in evidence, that there have always been diggers upon the land, and that a bonus for the discovery of a gold field (which must be supposed to have meant, if not expressly so called, a "payable gold field," for no one ever heard of a reward offered for the discovery of a gold field that would not pay to work), had been actually offered and paid by the Provincial Government or Council with respect to this district—such a district, I say, it might naturally be supposed, would be placed by the section under consideration in the category of lands "supposed to contain minerals of value." But it was held by the Commissioner, very properly, and has been very distinctly pointed out by His Honor the Superintendent, that the simple fact or supposition of the existence of minerals does not render any land mineral land under the Act, but that the Board must actually and formally pass a resolution to the effect that it is so, before it can be legally dealt with as such. I think that there can be no doubt of the correctness of this view, that land cannot be dealt with under one set of rules or another in accordance with a supposition—a supposition, too, of no particularly specified individual or set of individuals. Mr. Curtis's words were, "This land had not been classed under either of the three first classes of land, and was therefore rural land. The fact of its containing gold does not affect its being rural land in law, unless it is withdrawn in some way from ordinary sale. By the thirty-fifth section of the Act, rural land is open for sale by free selection, at £2 per acre. I understand that clause to mean that any person may buy any piece of land he thinks proper, which is open for sale as rural land, at £2 an acre, and that on his tendering the money the land is his. There is no discretion whatever given to the Commissioner. Any discretion on the part of the Commissioner of Crown Lands is expressly excluded by the provision for the withdrawal of land." Mr. Curtis went on to say, "That the discretion was intentionally excluded, and that the Act provides in section 9 in what way land may be withdrawn from sale, the words of the section being 'it shall be lawful for the Board at any time, by resolution published in the *Gazette*, to make reserves of land (among other things) for districts proposed to be constituted gold fields.'"

The Superintendent and Commissioner's view, then, of the matter is perfectly intelligible, viz., that the land had not been classed by resolution of the Board under either of the three first heads. That it fell then under the fourth head, which comprises all lands not included under the three first, viz., rural land. That any rural land may be sold at £2 an acre; that the Commissioner cannot refuse a person tendering his money, as that would be withdrawing the land from sale by his own act; and that nothing but a formal resolution of the Board can so withdraw it.

Now I will first make a few remarks on the question of discretion, and then return to this classification clause.

The Superintendent based his view of the necessity for the most stringent enforcement of all provisions of the Land Act which take away from, or do not expressly confer, discretionary powers upon the Commissioner, upon the avowed danger of opening the door to the grossest abuses in the disposal of land, if such stringent enforcements were not insisted upon. On this point, as a general proposition, I most heartily concur with him; it is one I have on a hundred occasions endeavoured to get observed in the construction of land laws. In a report I was commissioned by Government to make some ten months ago, on the administration of the waste lands of Otago by the Provincial Government, I made the following remarks, which I must read, lest what I have to say on the present occasion should lead to the conclusion that I have not sufficiently kept in view the dangers of giving discretionary power to officers dealing with public lands. In the passage alluded to, another discretionary power given to the Superintendent was the immediate object commented upon, but this power was objectionable chiefly because accompanied by the very power of withdrawing lands from sale now under consideration:—

"There remains, however, to be noticed one great evil connected with the administration in Otago; one indeed which, while it exists, must naturally cause dissatisfaction, even where no practical wrong may have been done, because it offers such great temptation to take advantage of the great facility the law gives for abuse, that suspicions will be sure to be excited, whether well grounded or not, that the abuse is of frequent occurrence. This evil is the constitution of the Waste Lands Board. The Board consists of a Chief Commissioner and four others, all appointed by the Superintendent of the Province. So far, the law is at fault, and the Commissioners would not have found it necessary to comment upon it; but the mode in which the power given is exercised is distinctly a question of administration of the law. Now, the established custom in Otago appears to be the appointment by the Superintendent of

the members of his own Executive. Mr. Driver, a member both of the Provincial Council and the House of Representatives, brought this subject under the notice of the Commissioners. He objected on the ground that the Board 'is composed of a political body, consisting wholly of the members of the Executive Government of the Province. It is ludicrous to hear this body, as I have frequently done, referring cases for the opinion of the Government. The temptation to use the immense power given by their right to administer the waste lands of the Province for political purposes and objects is obvious.' This brief and very pertinent remark has a reach and applicability far beyond the Province of Otago. Had it indeed been the intentional and deliberate object of any lawgivers or of any Legislature to provide the most effective means for jobbery and corruption their imagination could devise, it is difficult to conceive they could have surpassed what has actually been done in this matter. To give to persons depending for their position and places on popular election a direct and immediate power for good or evil over the purses and property of those whose votes they depend upon, are eager to obtain, and must be disgusted at losing—whom they scarcely can avoid desiring to reward if adherents, or punish if opponents—to give such a power, under such circumstances, does seem about the most injudicious and impolitic proceeding it ever entered the brain of lawmakers or statesmen to devise or give countenance to. And, as if the amount of irregular or unconstitutional interference with the exercise of political rights and privileges rendered possible in the administration of public lands by the more ordinary land laws of the Colony for other Provinces were not enough, those of Otago are exceptionally noticeable and peculiar in the extraordinary amount of discretionary power they confer upon the Waste Lands Board. One simple instance will suffice: The Board can, by one provision of the Act of 1866, withdraw from sale at their pleasure any lands 'the sale or disposal of which may appear to them to be or likely to be prejudicial to the public interests;' and the land withdrawn may at any time be put up for sale again, and this without giving or recording any reason for the withdrawal from sale or subsequent permission to sell, or any public notification, whether of a month or a day, of the proceeding. Could any provision afford better opportunities and facilities for favouritism or vindictiveness? And it is especially to be remembered, that these powers are given to *local* administrators—men whose very position as neighbours, fellow-townsmen, or fellow-provincialists, subjects them necessarily to relations of either friendship or hostility to the purchasers or other dealers in the public lands of the Province."

Now I think this passage expresses in language as strong as could properly be used, my opinion of the evil of absolute discretionary power being given to the administrators of land laws.

But I think a wide difference exists between such power as I have alluded to and a power, whether given to a Commissioner of Crown Lands or to a Waste Lands Board, to be exercised for the preservation of what is universally acknowledged to be a public right and interest, under clearly laid down conditions, limiting its object and extent, defining the time within which it shall be exercised, and securing the utmost publicity as to the mode and occasion of its exercise. No one could reasonably object; and no one, as far as I know, does object, to the Waste Lands Board having a discretionary power to withdraw auriferous lands from sale. The objection appears to be to a Commissioner having such power. But suppose that the case is such that the opportunity for the exercise by the Board of their reasonable power depends entirely upon the Commissioners having a preliminary power (always under strict conditions) to reserve the land until the decision of the Board can be arrived at. Suppose that, if such power be not conceded to the Commissioner, the whole object of giving the power to the Waste Lands Board may be frustrated, and the very prize which it is the object of the law to preserve for the public be snatched away, before the Board can take the step necessary to secure it for them?

In such a case as the present—take the extreme case of a small number of large capitalists applying for the whole or for the bulk of the richest reefs or alluvial deposits in a gold field: is it better that a Commissioner should be obliged to pass it all away from the public into the hands of a few individuals, because he may not reserve it till the decision of the Waste Lands Board can be obtained, than that he should have power at his discretion to refuse it for that short interval? I have no doubt myself on the subject. In short, the whole question resolves itself into one between the use and abuse of a power—the first of which may be highly beneficial, the last most pernicious.

But leaving the general question of the policy of giving discretionary power of this kind, there recurs the argument that the law in the present case does not expressly give that preliminary power. I have a strong opinion that, if the case were fully argued before the Supreme Court, the position might still be found tenable, that, where the opportunity for the exercise of a power expressly given for a most important object could only be properly secured by inferring a minor and accessory power in the same or some other person, such power must be held to be implied by and included in the one expressly given. I am aware that the late Mr. Justice Stephen gave a decision excluding such an inference in a case of land withheld from sale by myself; but the case was not fully argued before the Judge, and his own decision involves statements either at variance with the facts of the case which he had not been informed of, or are really altogether beside the question actually at issue. My opinion on this point is certainly that the power ought to be held to be in the Commissioner of Crown Lands constructively or by inference. But it is of less consequence that this opinion be decidedly given in the case before us, because, whether the Commissioner had or had not any such discretionary power, it is certain he did not attempt to exercise it, so that, were it proved ever so clearly to have been possessed by him, the state of the present question would not be affected thereby.

I return now to the main question—that of the section requiring the classification of lands.

The argument in favour of the purchasers, I repeat, is, that the land sold not having been formally withdrawn from sale by the Board, and not having been formally classed under either of the first three heads, viz., Town, Suburban, or Mineral Land, necessarily fell into the remaining class of "Rural Land."

Now, upon this, I have only to remark that, the argument being good, as I think it is, with respect to placing land under the first three classes, is equally good and absolutely must be made applicable to the fourth class also. It is clear to me that if the formal resolution of the Board is



required to make land town, suburban, or mineral land, it is equally required to make it rural land; that is to say, that whenever any land is to be determined as rural land by the mere omission to classify it under other heads, that omission must occur in or with respect to some distinct and definite act of classification duly undertaken and duly recorded—omission and all—by the Board. The Board, to explain further, must have recorded a classification of all land, say within a district defined clearly by certain outside boundaries. Within these boundaries it may classify certain portions of land as the sites of towns; certain other portions as suburban lands; other portions, again, detached or not, from all the others, as mineral lands. Then, supposing within the whole district so defined, distinct portions of land were left not expressly specified as belonging to either of the three classes of land above-named, all such unspecified portions would then, by the operation of the clause of the Act, by this mere omission to classify, become rural land.

I cannot see how it is possible to avoid or evade this construction of the Act. Either every part of the process of classification requires the distinct action of the Board, or no part of it does. If land may be considered classified by the mere operation of the Act itself, without the action of the Board, in any one of the classes, it must be so in all of them. If the clause can effect classification with respect to rural land, then it does so with respect to mineral land. If, because the Board has not expressly declared certain lands mineral, it must be by the clause itself made rural, then the clause itself is equally powerful, without the interference of the Board, to place all land supposed to contain minerals under the head of mineral lands. You cannot adopt one principle of construction with respect to three members of the sentence constituting the clause, and another different principle with respect to the fourth or fifth member of the sentence. I hope I have made this clear. And now I will repeat it. All lands must be subjected to, and recorded as having been subjected to, the operation of the Board before they can be considered as having been formally classified, and brought consequently under the operation of any regulations of the Act, for the disposal of any particular class of such lands. The omission to classify must be as distinct, formal, and intentional an act of the Board as any positive act of classification, and as distinctly recorded as such. It will not do to say, the Board has never had under its consideration some out-of-the-way portion of the Province, and therefore this portion is classified as rural land. Such land must clearly have been shown to have been included within the boundaries of a district what the Board has expressly had, and recorded its having had, under its consideration for the purpose of classification, and to have been intentionally left out of the three specified classes of land, before it can fall under the provisions applicable to such cases of omission.

This reading of the clause, obviously correct, as it seems to me, might be supported, if necessary, by the fact, that it renders the rest of the Act intelligible and consistent, both with itself and the avowed general policy of the Legislature in framing it, and other similar Acts.

On any other reading, you are driven into the conclusion that the Act involves this absurdity, namely, that any one at any time since it came into operation might have compelled the Commissioner to sell to him at £2 per acre, the whole of any town site, however valuable for instance, supposing any such to have existed, merely because it had not been actually classified as such previously by the Board; and this might have been done at the very moment the Board was engaged in framing the words of the resolution under which it would be classified and withdrawn from sale.

Again, by this reading you can avoid altogether the necessity for inferring any preliminary power in the Commissioner of withholding land until the Waste Lands Board had decided upon it; because he would simply have to reply to an applicant to purchase, "This land has not been classified, and does not come under the regulations under which you claim to purchase it." And it avoids all the gross inconsistencies which would otherwise be involved in an Act, which obviously intended to preserve from sale the richest gold lands, would nevertheless contain provisions so framed that any one could snatch away those lands, while the clumsy machinery for saving them was being got into slow and ineffectual motion.

If an interpretation of an Act, besides being consistent with the strict meaning of its letter, avoids infraction of its obvious intention and spirit, which would be involved in a different interpretation, I think it is clear that the adoption of the first is imperative.

Acting, then, upon this construction of the Act, I have searched through the volume of "Minutes of Proceedings of the Waste Lands Board," from the time this Act came into operation (1863) to the time of the sales under consideration, and have been unable to find any resolution of the Board which could be construed into such a consideration of any district, including the Wangapeka, for the purpose of classification, as would justify the application of the fourth sub-section of section 24 of "The Waste Lands Act, 1863," to the lands in question; and the conclusion, thence, that they have been classified thereunder by the omission to classify them under the other heads.

The consequence is that, in my opinion, these lands were not rural lands, not having been properly classified as such. That, not being rural lands, they could not be legally sold under the provisions for the sale of rural lands, and that the sale of them was therefore illegal.

If this view be correct, it renders of little consequence the solution of the previous question as to whether the lands are included within the boundary of the South-west Gold Fields, which was left undecided.

I have now, in conclusion, only once again to remark that the above arguments, and the conclusion they seem to tend to, constitute simply an opinion—of no authority over the rights, or supposed rights, of any one; and that the only power which can authoritatively pronounce upon such rights and interests is the Supreme Court of the Colony, subject itself to appeals, if necessary, to higher tribunals. These are the only authorities which can decide ultimately what that law is, which we trust always to see maintained paramount in this Colony of English-speaking men.

ALFRED DOMETT.

24th December, 1869.

## No. 31.

Copy of a Letter from the SUPERINTENDENT, Nelson, to the Hon. W. GISBORNE.  
Superintendent's Office,

SIR,—

Nelson, 24th December, 1869.

By this mail you will no doubt receive Mr. Domett's report on the inquiry into the Wangapeka land sales, and be in possession of the grounds upon which his opinion that those sales were illegal is based.

The Provincial Government think it scarcely probable that Mr. Domett's opinion will be accepted by the purchasers, and in that case an appeal to the Supreme Court seems inevitable. It therefore becomes a question, what course is to be pursued in the meantime. If the land should be proclaimed a gold field, and the miners thereby obtain the right to mine for gold upon it, and the Supreme Court should afterwards decide that the sales were legal, the purchasers would probably lay claim to heavy compensation. It would therefore appear desirable that no action should be taken by the Provincial Government until the decision of the Supreme Court shall have been given, and with the view to obtaining that decision at an early date, I trust that the General Government will decide what course they intend taking with regard to the sales with as little delay as possible.

Should the Supreme Court be appealed to, the question of the boundary of the present gold field will no doubt be considered. I have therefore instructed the Government Surveyor, Mr. Lewis, to ascertain, beyond doubt, whether a line drawn from the mountain known by the miners as "Mount Owen," to Mount Arthur, will exclude the land sold or not. Should it be proved to be within the line, it seems probable that the purchasers of the land would yield their claim to it in preference to fighting the question of boundary in the Supreme Court.

I have, &amp;c.,

OSWALD CURTIS,

Superintendent.

The Colonial Secretary, Wellington.

## No. 32.

Copy of Telegram from Mr. R. A. Moss to the Hon. W. GISBORNE.

Nelson, 27th December, 1869.

SUPERINTENDENT about to survey line Mounts Arthur and Owen, to ascertain if sold land within or without gold field. Miners consider it breach of faith, and taking part of purchasers. All proceedings were stayed until further inquiry. Please reply.

The Hon. the Colonial Secretary, Wellington.

R. A. Moss.

## No. 33.

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

Wellington, 27th December, 1869.

MR R. A. Moss telegraphs to me that you are about to survey at Wangapeka, to ascertain whether land purported to be sold is within or without gold fields. I hope that such is not the case, and that nothing will be further done until the General Government have considered inquiry, and communicate with your Honor on the subject, otherwise further complications are to be apprehended. I have not yet seen letter by this morning's mail, which probably has brought Mr. Domett's report.

His Honor the Superintendent, Nelson.

GISBORNE.

## No. 34.

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

Nelson, 27th December, 1869.

THE proposed survey having been solely to ascertain position of line claimed by miners, and reported favourably upon by Mr. Domett, I cannot see how it could give rise to further complications; but nothing shall be done till I hear from you.

The Colonial Secretary, Wellington.

OSWALD CURTIS,

Superintendent.

## No. 35.

Copy of Telegram from the Hon. the COLONIAL SECRETARY to the SECRETARY for CROWN LANDS,  
Nelson.

Wellington, 29th December, 1869.

I HAVE read your able report in Wangapeka case with great care. I think that a line should be surveyed from mountain known by the miners as "Mount Owen," to "Mount Arthur." Superintendent has been asked to place a surveyor under your orders for this purpose. Will you, when he does so, give necessary instructions to surveyor, and publicly notify the object of such survey as necessary to the completion of your inquiry.

GISBORNE.

## No. 36.

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

Wellington, 29th December, 1869.

WANGAPEKA case. I think that a line should be surveyed from mountain known by the miners as "Mount Owen" to "Mount Arthur," as necessary to completion of Mr. Domett's inquiry. Will you

place a surveyor under the orders of Mr. Domett, to whom the inquiry has been intrusted, for this purpose, and inform him accordingly.

His Honor the Superintendent, Nelson.

GISBORNE.

No. 37.

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

Nelson, 30th December, 1869.

SURVEYOR shall be placed at Mr. Domett's disposal. Mr. Domett is now at Motueka, but will return to-morrow.

OSWALD CURTIS,  
Superintendent.

The Colonial Secretary, Wellington.

No. 38.

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

Wellington, 31st December, 1869.

Mr. Moss telegraphs that miners agree to survey, but object to Nelson surveyors on account of their being connected with proved errors in maps of Wangapeka District. The survey is necessary to complete Mr. Domett's inquiry, and I think it best that he should select some surveyor unconnected with either side, and in whom both parties have full confidence. Have telegraphed to him accordingly.

His Honor the Superintendent, Nelson.

GISBORNE.

No. 39.

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

Colonial Secretary's Office,

Wellington, 10th January, 1870.

SIR,—

I have to acknowledge the receipt of your Honor's letter of the 24th ultimo, referring to Mr. Domett's report on his inquiry into the Wangapeka land question. As the inquiry and the report have been published in the newspapers, it is, I presume, unnecessary for me formally to enclose copies thereof for your Honor's information.

As the question, whether a line drawn from the mountain known by the miners as "Mount Owen" to Mount Arthur excludes the land sold at Wangapeka will shortly be decided by Mr. Marchant's survey, I will in anticipation communicate the views of the Government as to the course which ought to be taken in order to bring about a satisfactory termination of the disputes which have arisen regarding such sales.

Your Honor states, in your letter of the 24th ultimo, that should the land sold be proved within the line above referred to, it seems probable the purchasers of the land will yield their claims to it in preference to litigating the question of boundary in the Supreme Court. It seems necessary, therefore, only to consider what course ought to be taken in the event of the above line being found to exclude the land sold.

Your Honor states that the Provincial Government think it scarcely probable that Mr. Domett's opinion will be accepted by the purchasers, and in that case that an appeal to the Supreme Court seems inevitable. Your Honor proceeds to state, for reasons given by you, that it appears desirable that no action should be taken by the Provincial Government until the decision of the Supreme Court shall have been given, and that with the view to obtaining that decision at an early date you say that you trust that the General Government will decide what course they intend taking with regard to the sales with as little delay as possible.

The Colonial Government agrees with your Honor that the decision of the Supreme Court should be obtained before any further action is taken to complete the sales, but I did not consider it necessary to reply to this portion of your Honor's letter until now, inasmuch as, pending the survey of the line above mentioned, it seemed not desirable that any other course of action should be adopted. However, as the survey will very shortly be completed, and in order that, should the line be found to exclude the purchased land, the Provincial Government may not, on account of a want of expression of the views of the Colonial Government, delay adopting those measures which may appear best calculated to bring about a satisfactory termination of these disputes, I proceed to communicate to your Honor the views of the Colonial Government on this subject.

If it should appear as a matter of fact that the land sold is not within the gold field, the question of the validity of the sales on the other grounds which have been raised should without delay be tested by the Waste Lands Board. The management of the Waste Lands in the Province being mainly of Provincial concern, it seems to be the duty of the Board and the Provincial Government to take such steps as may appear advisable for bringing the question before the Supreme Court.

The Government is advised that the Board, or the Commissioner of Crown Lands, may, by refusing to do the necessary acts for completing the sale, enable the purchasers to raise the question by mandamus, or the Board, or Commissioner, may arrange that the questions should be raised by way of appeal from the decisions of the Board;—in this way, either on the present application, or some more distinct application, which the Board can easily arrange to have made, the question of invalidity on the ground of non-classification, or as being otherwise against the Waste Land Law may be raised for the determination of the Supreme Court. The Government is also advised that the question whether or not the Board cannot even now withdraw the land sold, and refuse to complete the sale on the ground of such withdrawal may also be raised for the decision of the Court.

These are suggestions only;—the Government is advised that there is no insuperable difficulty in raising the question for the decision of the Supreme Court if the Board wishes to do so, but that the

General Government is not able by any decision of its own on this question to facilitate the submission of these questions to the Supreme Court.

His Honor the Superintendent, Nelson.

I have, &c.,  
W. GISBORNE.

No. 40.

Copy of Telegram from the Hon. W. GISBORNE to the SUPERINTENDENT, Nelson  
Wellington, 22nd January, 1870.

I UNDERSTAND there is complaint of want of protection for gold-mining at Baton Biver, and elsewhere.

The present action of the General Government, undertaken to ascertain the boundary of existing gold field in Nelson Province, does not interfere with your power, as delegate, of extending the gold field, so as to include the Baton or other places which in your judgment it would be to the advantage of the Province to bring under Gold Fields Act.

His Honor the Superintendent, Nelson.

GISBORNE.

No. 41.

Copy of Telegram from the SUPERINTENDENT, Nelson, to the Hon. W. GISBORNE.  
Nelson, January 22, 1870.

THE Baton is a small portion of the Wangapeka District. A few miners, possibly twenty, are there, and have been for the last ten years. It would I think tend to complicate matters still further to proclaim a small piece of land with uncertain boundaries a goldfield within the Wangapeka District. I shall be glad to learn if you have any information on the subject, and on what authority it rests. I should have proclaimed the whole district a gold field three months ago, but was prevented by miners resisting survey of sold land, apparently under the impression that such survey would in some way prejudice any legal claims they might have. Without survey of the particular blocks, the sold land could not be described or excluded pending the settlement of the dispute, and Warden would not know whether claims applied for by miners were or were not portions of the sold land, and consequently whether they could be registered under Gold Fields Act. Had the land been surveyed and legality of sale not disputed, of course it need not be referred to in Proclamation extending gold fields.

The Colonial Secretary, Wellington.

OSWALD CURTIS.

No. 42.

Copy of Telegram from the Hon. W. GISBORNE to the SUPERINTENDENT, Nelson.  
Wellington, 25th January, 1870.

HAVE no definite information about Baton gold reef. Understand from the newspapers that extension of boundaries of present proclaimed gold field would be advantageous to Province of Nelson. My object was to remove any impression that present inquiry as to existing boundary interfered with your discretion as delegate to proclaim extended boundaries.

His Honor the Superintendent, Nelson.

GISBORNE.

No. 43.

Copy of Telegram from the SUPERINTENDENT, Nelson, to the Hon. W. GISBORNE.  
Nelson, 25th January, 1870.

FROM your telegrams of the 10th, 27th, and 28th December, I understood you to request expressly that no further action whatever should be taken by the Provincial Government in reference to Wangapeka dispute, whether as to surveys of purchased land, or of the boundaries of existing gold field, or as to extension of those boundaries, so far as such extension might interfere with questions at issue, until General Government has decided what action they think would be most desirable in the public interests.

The Provincial Government has consequently scrupulously abstained from all such action. Your letter of the 10th instant states that, pending survey of boundary line then and now in progress by General Government, it is not desirable that any other course of action should be adopted; but as that survey would very shortly be completed, General Government, to save time, gives its opinion that should the land prove to be outside gold field, certain steps should be taken, to test validity of sales, in Supreme Court. Am I to understand from your telegrams of 22nd and 25th instant, General Government now wishes Provincial Government to take other action in the meantime; and if so, what action?

The Colonial Secretary, Wellington.

OSWALD CURTIS,  
Superintendent.

No. 44.

Copy of Telegram from the Hon. W. GISBORNE to the SUPERINTENDENT, Nelson.  
Wellington, January 26, 1870.

GENERAL Government only wished you to suspend any action which might prejudice the question at issue in the Wangapeka land dispute before inquiry was completed. I do not see how the proclamation of extension of boundaries of present gold fields, or, in other words, the proclamation of additional gold fields, can in any way affect that question. Subject to that condition, the Government do not wish, and have not wished, to fetter your discretion in the exercise of your powers as Governor's delegate under Gold Fields Act.

His Honor the Superintendent, Nelson.

GISBORNE.

## No. 45.

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

Superintendent's Office,  
Nelson, 27th January, 1870.

SIR,—

I have the honor to acknowledge the receipt of your telegram of the 26th instant, in which you inform me that the General Government only wished me to suspend any action which might prejudice the question at issue in the Wangapeka dispute before inquiry was completed; that you do not see how the proclamation of extension of boundaries of present gold fields, or, in other words, the proclamation of additional gold fields, can in any way affect that question; and that, subject to that condition, Government do not wish, and have not wished, to fetter my discretion in the exercise of my powers as Governor's delegate under the Gold Fields Act.

I enclose a copy of a resolution passed unanimously at a large public meeting held last evening, by which you will observe that I am called upon to take action directly affecting the question in dispute. I may remark in passing that the meeting was misinformed as to the resolution arrived at by myself and Executive Council on the 24th instant, the minute of which was as follows:—"That no further steps be taken at present;" the intent being, that at all events no action should be taken until after the public meeting then summoned had been held.

As the General Government, in your latest telegram above quoted, does not release me from my assent to their request that I should suspend any action which might prejudice the question at issue in the Wangapeka dispute before the inquiry was completed, and have in your telegram of the 29th ultimo stated that the Government considered the survey of the boundary line, now going on under the orders of Mr. Domett, to be necessary to the completion of that gentleman's inquiry, it is quite clear that I am still, as I have been for a considerable time past, debarred from taking any step such as that indicated by the resolution.

I have further to remind you that, in your letter of the 14th of December last, you state that "the Government are now endeavouring to adjust that dispute, and hope, with your Honor's co-operation, to be successful," and as I presume that the General Government have not abandoned that endeavour, but on the contrary are now engaged upon a survey relating to it, I do not feel at liberty to take the course recommended by the resolution without the distinct request of the General Government,—at all events until the survey which you have pronounced to be necessary to the completion of Mr. Domett's inquiry has been concluded. Should the result of Mr. Marchant's survey show that the purchased lands are within the existing gold fields, the purchases will of course be void, and there would be no question as to the propriety of the immediate extension of the boundary.

On the other hand, if the disputed land is outside the boundary, and the sales valid, I fear that the absence of survey of the sold blocks would lead to serious difficulties and confusion, owing to the Wardens being in many cases at least necessarily unable to decide whether claims applied for by miners did or did not form a portion of the freeholds.

I trust the General Government will furnish me with an explicit expression of their views in reference to this matter as quickly as possible.

I have, &c.,  
OSWALD CURTIS,  
Superintendent.

## No. 46.

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

Nelson, 27th January, 1870.

WILL you authorize Marchant to give me what information he can of progress of survey and result so far as obtained?

The Colonial Secretary, Wellington.

OSWALD CURTIS,  
Superintendent.

## No. 47.

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

Wellington, 27th January, 1870.

MR. MARCHANT is authorized to give you and Representatives of miners what information he can of progress of survey and result so far as obtained.

His Honor the Superintendent, Nelson.

W. GISBORNE.

## No. 48.

Copy of Telegram from SECRETARY for CROWN LANDS to the Hon. the COLONIAL SECRETARY.

Nelson, 31st December, 1869.

I HAVE this moment returned from Motueka, and got your telegram of 29th. Diggers, I find, have unreasonable objection to a Provincial surveyor. It will be best to send Marchant over by first possible opportunity; instruments can be found here. I will give requisite instructions. Ten days or a fortnight ought to be sufficient time. I will give a notice accordingly. Please answer by telegram.

ALFRED DOMETT.

## PAPERS RELATIVE TO THE

## No 49.

Copy of Telegram from SECRETARY for CROWN LANDS to the Hon. the COLONIAL SECRETARY.  
Nelson, 31st December, 1869.

JUST received your telegram of to-day. I think my proposal to send Marchant will meet everybody's views.

ALFRED DOMETT.

## No. 50.

Copy of Telegram from SECRETARY for CROWN LANDS to the Hon. the COLONIAL SECRETARY.  
Nelson, 5th January, 1870.

MARCHANT will start for Wangapeka on Friday morning. Maps will not be ready before. Wakefield goes with him to give any help he can. Diggers will assist in every way. A surveyor goes on part of purchasers, and one or two persons will be sent no doubt by the diggers; with these I have nothing to do. I think the survey will be only a matter of a few days, but it may possibly take considerably longer. Marchant will send word as soon as possible after viewing the country. Lewis and Provincial Government are giving all information they have. Do you think it necessary for me to stay any longer. I purpose returning by Phœbé or Gothenburg, but can stay if you wish it. I have not issued notice of survey because here there will not be the slightest opposition, but all assistance given, and notice in such case is useless, and might seem like unnecessary depreciation of resistance not intended. I am still taking evidence on Educational Trusts; this has been greatly interrupted by the Wangapeka Inquiry.

ALFRED DOMETT.

## No. 51.

Copy of Telegram from Dr. HAAST to SECRETARY for CROWN LANDS.

12th January, 1870.

RETURNED from journey North, when I found your telegram. Mount Owen is situated between junction of Owen and Matiri Rivers with Buller. Its summit is about three miles in a north-west direction from junction of Owen Rivers and Matiri with Buller. If more information is wanted please communicate.

HAAST.

Hon. Alfred Domett, Secretary Crown Lands, Wellington.

## No. 52.

Copy of Instructions to Mr. MARCHANT, respecting the Survey of the Country at the Wangapeka; THE object of Mr. Marchant's visit to the Wangapeka is to ascertain whether a straight line from Mount Arthur to Mount Owen falls East or West of the lands lately alleged to have been purchased, or whether it cuts through those lands.

The first point is to determine which peaks are to be taken as those called Mount Arthur and Mount Owen. That called Mount Arthur, there is perhaps no dispute about. None was raised during the progress of the inquiry. Mr. Marchant will assume that taken by Mr. Lewis as such to be the correct one, unless he finds good reason for a different conclusion, which is not probable. In the latter case, he must use his own judgment, taking care, in determining which peak he will take, to give due weight to the circumstances of superior altitude, and greater conspicuousness from the settled side of the country. With respect to Mount Owen, Mr. Marchant will in the first place consider that the mountain or group laid down on the map adopted by the Crown Lands Commissioner, Mr. Richmond, which was made by or in accordance with Mr. Rochfort's plan, is the real Mount Owen. I believe this group to be the mountain laid down in Stanford's map, also the mountain known by the settlers and miners as Mount Owen, and really the one alluded to by Mr. Haast in various parts of his journal. The line from Mount Arthur to this, is that which Mr. Marchant is to consider he has to fix and lay down.

But, if practicable within a reasonable time, it would be well for Mr. Marchant to determine the bearing of the mountain called Mount Owen on Mr. Burnett's map, from Mr. Richmond's Mount Owen above alluded to, and especially the distances of the two East and West from each other. The determination of this point is important, because if the case should come before the Supreme Court, Mr. Burnett's Mount Owen will be contended for by the land purchasers as the true Mount Owen, and the one by a line from which to Mount Arthur the character of the purchases should be determined.

As it is impossible to say from the descriptions in the applications to purchase what the precise form and even relative position of the sections applied for will be, because they are made to depend on Culliford's original application, which itself gives no bearings of boundary lines, so that the dependent sections may radiate from Culliford's in any direction from East to West, so that they be to the northward of it,—and because the width of the sections and extent to which they are to join each other consecutively, are points left by the Regulations almost to the discretion of the purchasers to decide,—it will not be necessary for Mr. Marchant to trouble himself with any of these purchases, but simply to ascertain the relative position of Culliford's purchase with respect to the lines between Mounts Arthur and Owen.

If it be self-evident and demonstrable without actual measurement or chaining, that Culliford's section and all the others must altogether fall on one side or the other of the lines, then no measurement of the distance of Culliford's section from the lines need be made. But if this be doubtful, then it will be necessary to ascertain the precise distance of Culliford's section from the line. This being ascertained, the precise position of the purchased sections with respect to the line will be a matter to be settled between the Waste Lands Board and the purchasers, from the data afforded by their very indefinite descriptions and the regulations as to size, &c., of sections contained in the Waste Lands Act.

The determination of the position of Culliford's purchase, with respect to Mr. Richmond's Mount Owen, is to be considered as the object absolutely to be effected. The position of that purchase with respect to the other line must be considered secondary, but important if time and circumstances will permit of it being accomplished.

If it be found necessary (as anticipated above to be possible) to ascertain the precise distances of the lines by actual measurement, Mr. Marchant should report this fact at once; and state the time the survey would require, taking care that the statement be sent on by telegraph to Wellington immediately. Mr. Marchant rightly understands that it is desirable, if possible, to avoid the expense and delay of a chain survey.

Mr. Marchant is authorized to incur such expenses as he finds absolutely necessary for the accomplishment of the survey required. Of course he will study the strictest economy in every particular, and be careful in taking receipts for any money actually paid in travelling, or otherwise, as vouchers to his account against Government.

Nelson, 7th January, 1870.

ALFRED DOMETT, S.C.L.

No. 53.

Copy of a Letter from Mr. J. W. A. MARCHANT to the SECRETARY for CROWN LANDS.  
Survey Camp, Rolling River,

SIR,—

Nelson, 19th January, 1870.

I have the honor to report for your information that I arrived here on the afternoon of Monday, the 10th instant. On the 12th, Mount Arthur and Mount Owen were pointed out to me by some of the miners from a peak of the Marino Mountains. I had a station constructed on this point, and caused another to be erected upon an adjoining hill; these stations are necessary for the purpose of connecting the boundary and Culliford's claim.

The reef at the last-mentioned point lies within the gold fields, taking the line as drawn from Mount Arthur to the Mount Owen pointed out to me; but by what distance I am not yet able to say.

The miners asserting that a peak on Mount Arthur, other than the one you instructed me to take, was the highest, forced me to satisfy myself on this point. Consequently, three of the men and myself started from here on the 14th, and ascertained on the 16th and 17th that one of the western peaks has a greater altitude than any other point. To do this, we ascended Mount Arthur twice.

Yesterday morning we descended the mountain, and I reached this camp last night; the men have come in this afternoon. To-morrow, I purpose leaving for Mount Owen; and in a few days more I hope to be in a position to inform you what distance Culliford's claim lies westward of the boundary line, and also to give you some reliable information about the Mount Owen shown on Mr. Burnett's map.

I have concisely stated what steps I have taken so far, and what I propose doing, deferring to my final report a complete and detailed account of the survey, if you desire it.

I might suggest that it will be necessary for the Government to make such arrangements as will enable me to meet the current expenses of the survey party.

I beg respectfully to acknowledge the zealous aid I have received from Mr. Wakefield in the way of suggestions, &c., when required.

I have, &c.,

The Hon. the Secretary for Crown Lands.

J. W. A. MARCHANT.

No. 54.

Copy of Telegram from Mr. J. W. A. MARCHANT to the SECRETARY for CROWN LANDS.  
Station, Nelson, 31st January, 1870.

THE Mount Owen pointed out to me throws reef some two miles within gold fields. It forms part of Mount Owen group. Donald's track passes over it. The highest peak, however, lies further West. The group is five thousand to seven thousand feet high, and is visible from Buller River, a little above Mangles. The Mount Owen of purchasers is a timbered spur three thousand feet high, situated sixty chains west of Owen River mouth. I respectfully recommend a ten days' survey to fix position of reefs with reference to the two points on Mount Owen group, and, if opportunity offers, position of Burnett's Spur,—approximately. A report follows this telegram.

J. W. A. MARCHANT.

No. 55.

Copy of Telegram from SECRETARY for CROWN LANDS to Mr. MARCHANT.

31st January, 1870.

You are not to survey any purchased lands whatever. How long would it take you to ascertain precisely the distance west of Haast's Mount Owen from the diggers' Mount Owen,—that over which Donald's track runs, if you do not know it already? If you can do this in four or five days, you may do it.

Marchant, Wangapeka.

A. DOMETT.

No. 56.

Copy of Telegram from Mr. MARCHANT to SECRETARY for CROWN LANDS.

Mount Owen Group, 1st February, 1870.

Nelson, 2nd February, 1870.

CULLIFORD's reef lies two miles within line from digger's Mount Owen, at a guess. The line from purchasers' Mount Owen will pass either West or close West reef. Is this highest point, at what I believe forms group, to be taken or not?

To Mr. Domett, Wellington.

J. W. A. MARCHANT.

## No. 57.

Copy of Telegram from Mr. MARCHANT to SECRETARY for CROWN LANDS.

Nelson, 11th February, 1870.

THE reef lies about eighteen chains eighty-three links West of line from highest point of group, and it lies two miles seventeen chains West of line from settlers' Mount Owen. The survey was made in seven days, using, in some cases, ill-conditioned triangles. It seems certain that the southern purchasers would come close to or across the line. I have seen Haast's geological map, which shows settlers' Mount Owen to be granite, and the western part of group to be "mica and old clay slates quartz schists, cambrian and silurian sandstone and slates." It also shows that the formation to the westward of the Owen mouth, commencing about one mile and a quarter therefrom, and extending West, is the same as the western part of group. I have given information as to lines to Superintendent and miners.

To Mr. Domett, Wellington.

MARCHANT.

## No. 58.

Copy of a Report by Mr. MARCHANT on the Survey of the Boundary Line of the Wangapeka Gold Fields.

SIR,—

Mount Owen Group, 1st February, 1870.

In my report of the 19th January I informed you I had fixed upon the point on Mount Arthur which forms the northern extremity of the gold fields boundary line. I have now the honor to further report that the survey camp was moved to the Mount Owen of the settlers, on the 20th and 21st ultimo. This mountain extends from the Wangapeka River southwards to the head of the River Owen, where the highest peaks (5,500 feet) occur. Some of these peaks have a rugged appearance, caused by the faces falling away almost perpendicularly, being covered with masses of rock.

Considering it advisable, for your information, to ascertain the distance of Culliford's Reef from a line between Mount Arthur and this, the recognized Mount Owen, on the 22nd, 24th, and 25th, I ranged the line two or three miles towards Mount Arthur, and from two points upon it, obtained the distance to a pole erected upon Culliford's spur (the claim itself not being visible); the distance of the pole from the reef was measured at the same time by Mr. Wakefield. I thus ascertained that the reef lies two miles to the westward of the line.

Being anxious to assure myself that this mountain really lay between two branches of the River Owen, as shown on Stanford's map, and it appearing to me that some very rugged peaks (7,000 feet above the sea level), lying to the westward, might form part of the Mount Owen Group, and also wishing to examine a peaked range in what I believed to be the position of the purchasers' mountain, I determined to devote a few days to procure evidence upon these points before I telegraphed to you.

Accompanied by Mr. Knyvett, I started on the 26th down the Owen to the Buller River, and thence to the Mangle's junction, returning to this camp by 2 p.m. on the 28th.

I am now in a position to state that Donald's track passes over the settlers' Mount Owen, and that the river forks and encloses it as shown on Stanford's map. The Owen also has branches running down from the north-west, which embrace, as I supposed, the western peaks before mentioned, conclusively proving to my mind that they and the settlers' mountain constitute the Mount Owen group of Mr. Richmond's map. The western peaks are visible from a point on the Buller four miles above the Mangle's junction. I have good reason to believe also that I saw them about one mile above the Mangles. (See Haast's Report, page 12.)

The peaked range proved to be west of the mouth of the Owen, at a distance of about sixty chains, and it or no other is the mountain shown upon Mr. Burnett's map and called Mount Owen. From the western side of the Mount Owen group, a range runs southward towards the Buller, throwing off spurs towards the South-east; one of these forms a hill, with three prominent peaks, about 3,600 feet high; the timber may be said to cover the mountain from the top to the bottom, though there are occasional bare patches;—this is the purchasers' Mount Owen. It is a curious fact that, in the view I obtained from the Buller of the Mount Owen group, this peaked range formed the foreground.

If this be taken as the purchasers' Mount Owen, a line from it to Mount Arthur would probably fall west of the reef; this is a mere guess on my part, however.

The question naturally arises—Is the distance of Culliford's reef to be ascertained from lines drawn from Mount Arthur to the mountain west of the mouth of the River Owen, and to the highest point of the Mount Owen group, which would be a mile or two west of the settlers' Mount Owen; or, having already obtained the distance of the reef from the line between that mountain and Mount Arthur, is there nothing more to be done?

Unfortunately, the 29th and 31st ultimo were wet days, or I should have made considerable progress with the survey to the above end, while waiting your further instructions.

I need hardly assure you that, since the 12th, when I commenced work, to the 28th, when I telegraphed the result of my explorations to you, the men and myself have not been idle. In two weeks and three days, without deducting loss of time caused by unfavourable weather, shifting camp, procuring supplies, &c., we performed the journey to, and ascent of Mount Arthur, also the ascent of the eastern part of the group, in addition to the work described herein.

I am afraid the miners have been misled as to the nature of my instructions. It seems I was expected to ascend the recognized Mount Owen, take a few angles, report to the Government, and the matter was settled.

In the face of the searching inquiry held in Nelson, I hope it will not be considered presumptuous on my part to offer a suggestion before closing my report; but with the advantage of a cursory examination of the country, I venture to draw your attention to page 95 of Mr. Haast's report. He there speaks, I believe, of the settlers' Mount Owen as being of a "porphyritic granite," and further on in the same page he states: "Mount Owen itself . . . consists of old clay slates of a bluish grey colour."



The settlers' Mount Owen really is of a granite formation. The western peaks of the group seem to me to be of a sort of limestone, with slate at the foot of the range. What the formation of the mountain near the mouth of the Owen is I am not aware, not having been upon it.

Would it not be advisable to have the opinion of some competent authority as to the geological character of the disputed mountains?

I propose forwarding specimens of the rocks constituting the main part of the Mount Owen group.

The Hon. the Secretary for Crown Lands,  
Wellington.

I have, &c.,  
J. W. A. MARCHANT.

### No. 59.

Final Report by Mr. MARCHANT upon the Survey of the Boundary Lines of the Wangapeka Gold Fields.

SIR,—

Wellington, 17th February, 1870.

Having completed so much of the Wangapeka Survey as is at present required, I have the honor to submit for your consideration my final report upon the subject.

#### *Object of the Survey.*

The object of the survey is clearly set forth in your instructions to me, viz., to ascertain whether a straight line from Mount Arthur to Mount Owen falls east or west of the lands lately alleged to have been purchased, or whether it cuts through those lands. The first point is to determine which peaks are to be taken as those called Mount Arthur and Mount Owen. The determination of the position of Culliford's purchase with respect to Mr. Richmond's Mount Owen, is to be considered as the object absolutely to be effected. The position of that purchase with respect to the other line must be considered secondary, but important if time and circumstances will allow of its being accomplished.

#### *Points selected as Mount Arthur and Mount Owen.*

I selected the western peak upon Mount Arthur "on account of its superior altitude and conspicuousness from the settled side of the country," as the northern extremity of the gold fields boundary line.

Mr. Haast was travelling up the Buller River (from the Mangle's junction to the River Owen) when he named Mount Owen, the circumstances attending which are described at page twelve of his Report:—"At every turn the river took we could look down upon its swift, increasing, and at times most turbulent course, which lay, as it were, at our feet; whilst three rugged, serrated peaks of an isolated range, still in parts covered with snow, formed the background, rising to a height of 7,000 feet, which I named Mount Owen, &c."

The mountain contended for by the miners as Mount Owen (marked A on the plan herewith) has been already described in my preliminary Reports. In a few words: it consists of a range (in its highest part 5,500 feet above the level of the sea) extending from the Wangapeka River southwards to the River Owen, as shown on Stanford's map, and is the one described in the evidence given before yourself during the inquiry held in Nelson.

I ascertained that the Mount Owen group of Mr. Richmond's map comprises the range (A) and a cluster of rugged serrated peaks (B), with masses of snow lying in the hollows and chasms between the peaks, the latter attaining a greater altitude than any other mountain in the district, and the whole group forming a most remarkable and conspicuous mountain.

The purchasers contend for a mountain shown upon Mr. Burnett's map to lie about two or three miles west of the junction of the Owen and Buller Rivers. The only point upon the ground which at all corresponds with this, is a timbered spur (C) from a range running southwards from the Mount Owen group. From the centre of this spur rise three prominent peaks (from 3,000 to 3,600 feet above the sea level), also covered by forest, save a few bare patches.

The group (AB) is clearly visible over Mr. Burnett's peaks (C) from the banks of the Buller, between the Mangles and Owen.

At page 95 of his Report, Mr. Haast states that "Mount Owen itself consists of old clay slates of a bluish grey colour." The geological map accompanying his Report, shows the mountain A to be granite, as it really is, and the western part of the group to be "mica and old clay slates, quartz schists," and perhaps "Cambrian and Silurian sandstones and slates."

#### *Survey.*

From a traverse base and a very hurried survey on the mountains, I ascertained that a line from Mount Arthur to the mountain (A) contended for by the miners, would pass 2 miles 1,675 links to the eastward of Culliford's reef. A line from Mount Arthur to the highest peak (B) in the group would pass 1,883 links to the eastward of the reef. If adopted, this line should be laid off on the ground. A line to the centre peak of Mr. Burnett's Mount Owen would pass about two miles to the westward of the reef.

I have avoided giving any opinion as to which point is Mount Owen during the time I have been engaged upon the exploration and survey, believing my duty to be simply to collect evidence to enable the Government to come to a decision, which I trust they will now find little difficulty in doing.

I have considered it advisable to append hereto a copy of my journal, as from it only can any just estimate be formed of the work executed; and that people ignorant of the nature of the task set me, may, if they choose, satisfy themselves that no time was lost.

Before closing this Report, I must express my grateful acknowledgments for the uniform courtesy and consideration shown me by the Provincial and other authorities at Nelson, and by the settlers and miners, the latter on many occasions assisting me in the construction of stations, &c., and in the capacity of guides, involving much loss of time to themselves, although materially aiding me. Mr. H. Knyvett and the men actually engaged on the survey showed themselves most energetic and willing

throughout, and on no occasion did they shrink from the little discomforts and privations,—unexpected in most survey operations.

Upon my return from Wangapeka, I examined the large plot of the Province of Nelson, and I have no doubt it will be found correct upon examination by a more competent authority than myself. A line from Mount Arthur to the true position of Mount Owen on the map, cuts, as has been proved by the survey.

The Secretary for Crown Lands,  
Wellington.

I have, &c.,  
J. W. A. MARCHANT,  
Surveyor.

*Mr Marchant's Journal from 10th January, to 15th February, 1870.*

THE survey party consisted of myself and four men.

10th January: Arrived at Culliford's Reef, Rolling River.

11th: Cloudy and wet. (Throughout, weather of this character put an effectual stop to the work, it being impossible to carry on observations which had necessarily to be made at considerable altitudes.)

12th: Ascended a mountain 5,500 feet high, from whence (it being open on the top) a view was obtained over the adjacent forest country. Mr. Burke and others pointed out to me the settlers' Mount Owen, and likewise the position of Mount Arthur, which latter, however, was enveloped in clouds.

13th: Wet and cloudy.

14th: It being necessary to satisfy myself whether or not the Eastern Peak contended for by the miners was really the highest point on Mount Arthur, I left the camp early in the morning, accompanied by Mr. Knyvett and two men. We walked to the Baton River (twenty-one miles), at the foot of the mountain, by 3 p.m., and afterwards I walked up the Baton four or five miles, obtaining all necessary information as to the best route for the ascent.

15th: Cloudy and wet. Moved the camp up the Baton about six miles.

16th: Sunday. As the morning seemed fine, I determined to ascend the mountain, as I might not soon have such a fine day. I did so, and though I mounted one of the western peaks, the clouds prevented my ascertaining the highest point. Had to go back to Taylor's the same night, reaching the accommodation house at dark.

17th: Left Taylor's at 5 a.m. After a five or six hours' climb, reached the foot of the peaks. It being necessary to reach a point to the eastward, only one and a half mile distant, Mr. Knyvett and I started for it about 11 a.m. We found the ground very rough and broken, not to say dangerous; almost without a halt it took us nine hours to get there and back to the foot of the peaks, where we had to remain all night.

18th: We reached our camp on the Baton this morning about 9 a.m., had breakfast, and walked the twenty-six miles to the Rolling River camp by 7.15 p.m.

19th: The men arrived from the Baton this afternoon.

20th and 21st: Moving the camp to the settlers' Mount Owen. The men found great difficulty in carrying loads up the steep, heavily timbered, mountain sides.

22nd, 24th, and 25th: Laying off, measuring, and taking angles on a short traverse base, from which I obtained distance of Culliford's Spur, from a line I had also ranged from settlers' Mount Owen towards Mount Arthur.

26th, 27th, and 28th: Wet. Travelling over the settlers' ranges, and down the Owen and Buller Rivers, to the two angles, and the return journey. On this occasion, ascertained position of Mr. Richmond's Mount Owen group, and purchasers' mountain.

29th to 31st: Wet.

1st February: Sent two men to find, if possible, a track to Western Peaks: they had reported it next to impassable. One of my men laid up. Mr. Knyvett absent to procure supplies. Ranging base.

2nd, 3rd, and 4th: Ranging and measuring traverse base. One of men disabled by a tomahawk cut. Received instructions from Mr. Domett to finish survey by 9th instant.

5th: Mr. Knyvett, a man, and myself ascended the highest western peak of group, and erected a station there. Though only three miles distant in a straight line, owing to the very rugged and broken character of the country, it occupied us the whole day to do this. Would require a lighter theodolite, if time had admitted of observation from this point.

6th, 7th, 8th, and 9th: Taking the angles from the various stations, journeying down to the reef, traversing from the pole on Culliford's Spur to the reef itself, and calculating and plotting work.

10th: Left reef at 4.30 a.m., walked eight miles to Chandler's, and rode thence to Nelson, by 3.30 p.m., a total distance of sixty-one miles.

11th to 15th: Waiting for definite instructions, and funds to defray survey liabilities.

The district over which the work extended consists of extremely rough and broken mountains, covered for the most part by dense forest and scrub. It was generally found necessary to take circuitous routes in travelling from one point to another, (the use of horses being out of the question,) to avoid impassable ravines, &c. Without descending to the plains, a level base could not be obtained (as stated in my former telegrams and reports); consequently, the work having to be pressed forward, a base was measured along the ridges of the granite range, and the triangulation extended therefrom. Ill-conditioned triangles had to be used, otherwise, in obtaining other stations across ravines, and perhaps having to clear the tops of timber, would have increased the time given by Mr. Domett for the survey, to three weeks or a month. The survey actually occupied only seven days. Besides I always intended (with the permission of the Government) to range the line determined upon as forming the boundary through the forest, and to mark and properly define it, so that the interested parties might see how their purchases and claims lay with respect to it.

J. W. A. M.

## No. 60.

Copy of Telegram from E. BAIGENT, Esq., M.H.R., to the Hon. W. GISBORNE, Wellington.  
Nelson, 31st January, 1870.

BEING the person who forwarded deputation on behalf of the miners and public of Nelson, I should feel greatly obliged if you would send result of survey. Miners and public are anxious to hear decision of Government, and are agitated by conflicting reports. Please reply.

Hon. W. Gisborne, Wellington.

E. BAIGENT, M.H.R.

## No. 61.

Telegram from Hon. W. GISBORNE to E. BAIGENT, Esq., M.H.R.  
Wellington, 1st February, 1870.

RESULT of survey is to prove that land purported to be purchased is within gold fields. Superintendent of Nelson is about to proclaim extended gold fields.

E. Baigent, Esq., M.G.A., Waimea, Nelson.

W. GISBORNE.

## No. 62.

Copy of Telegram from Mr. MARCHANT to SECRETARY for CROWN LANDS.  
Nelson, 14th February, 1870.

THE line from Burnett's mountain would pass about two miles to westward of reef if line from highest point in group be maintained. It will, of course, be necessary to clear and define it for, say, half a mile along side of reef. In fairness the men should be allowed ten shillings a day clear of cost of provisions. Mr. Knyvett would not be overpaid at fifteen shillings per day. Will you authorize the above?

Mr. Domett, Wellington.

MARCHANT.

## No. 63.

Copy of Telegram from SECRETARY of CROWN LANDS to Mr. MARCHANT.

You were expected back by the "Lord Ashley." No more survey is to be done by you. Return by first opportunity.

Return by "Tararua."—A. D.

A. DOMETT.

## No. 64.

Copy of Telegram from Mr. HENRY DREW to the Hon. the COLONIAL SECRETARY.

SIR,—

Nelson, 16th February, 1870.

A memorial will be forwarded by "Airedale," to-morrow, touching the Wangapeka purchases. Will you please suspend any decision until receipt of same.

The Hon. the Colonial Secretary, Wellington.

HENRY DREW,  
Chairman of Purchasers' Committee.

## No. 65.

Copy of Telegram from the Hon. the COLONIAL SECRETARY to Mr. DREW.  
Nelson, 16th February, 1870.

No question about Wangapeka immediately pending for decision of General Government. Will be glad to receive memorial.

Henry Drew, Esq., Nelson.

W. GISBORNE.

## No. 66.

Copy of Letter from the SUPERINTENDENT, Nelson, to the Hon. the COLONIAL SECRETARY.  
Superintendent's Office,

SIR,—

Nelson, 17th February, 1870.

I have the honor to transmit to you herewith a Memorial from the purchasers of land in the District of Wangapeka in October last, which has been sent to me by the Chairman of the Purchasers Committee, with a request that I should forward it to you.

The Hon. the Colonial Secretary,  
Wellington.

I have, &c.,  
OSWALD CURTIS,  
Superintendent.

## Enclosure 1 in No. 66.

Copy of Memorial from the PURCHASERS of LAND in the District of Wangapeka.  
Nelson, 16th February, 1870.

To the Honorable the COLONIAL SECRETARY, Wellington,—

SIR,—We, the undersigned Memorialists, on behalf of ourselves and others, beg most respectfully to bring under the notice of the Honorable the Colonial Government the following statement:—

That on the 14th of October last, the under-mentioned persons, together with a considerable number of others, bought of the Land Commissioner of Nelson sundry blocks of land at Wangapeka, varying from ten to fifteen acres, and that nearly the whole of this land has been subsequently subdivided and re-sold.

That the original purchasers, within a few days after, and with the consent of the Land Commissioner, sent a surveyor, on their behalf, to lay off their purchased sections of land.

That the surveyor, on his arrival at the Wangapeka, was met by a number of men, who refused to allow him to proceed with his work.

That your Memorialists believe the cause of this refusal to be that these men conceive the said blocks of land to be within the boundary of the South-west Gold Fields, as fixed by a Proclamation issued by the Provincial Government in 1868, wherein a certain Mount Owen is mentioned as a boundary point.

That a dispute has arisen as to which is Mount Owen, and which is the boundary point of Mount Arthur; and a strong feeling of dissatisfaction arising from what appears to your Memorialists to be the partial character of the late investigation, and the unsatisfactory nature of the survey, in so far as these boundary points are concerned.

That, from a telegram received from Dr. Haast (a copy of which is enclosed herewith), and from his map and published account of the same, as also from the testimony which can be procured from two gentlemen, namely, Mr. Burnett and Mr. Mackay, who were with Dr. Haast when the said Mount Owen was named, your Memorialists believe the same to be very differently situated from the one pointed out by the miners on the ground.

Your Memorialists, therefore,—believing that if the position of Mount Owen were once definitely fixed, it would very much simplify, if not altogether settle, the dispute now existing—beg most respectfully and earnestly to suggest to your honorable Government, that as Dr. Haast explored the country and named the mountain, that gentleman should at once be requested to proceed to Nelson, and, with the assistance of a surveyor, point out and define the position of the said Mount Owen, and cause the boundary line to be traversed from thence to Mount Arthur, as described in the said Proclamation of 1868.

And your Memorialists as in duty bound will ever pray.

HENRY DREW (Chairman of Purchasers' Committee),  
ALFRED CULLIFORD,  
EDW. EVERETT,  
GEORGE B. SINCLAIR,  
WILLIAM COOKSEY,  
ROB. DISHER,  
JOHN DEVONPORT,  
ROBT. SHALLCRASS,  
CHARLES MCGEE,  
J. HOUNSELL,

Each signature representing the purchasers of one of each of the nine original blocks purchased.

#### Enclosure 2 in No. 66.

Copy of Telegram from Dr. HAAST to Mr. A. CULLIFORD, in reply to his Telegram asking for a copy of the Telegram sent to Mr. Domett by Dr. Haast during the investigation, and which reply was not produced by Mr. Domett, or ever made public:—

"No. 299.

12th February, 1870.

"Do not know exact words of telegram. Substance is, Mount Owen is situated on northern bank of Buller, about 3 (three) miles north-west of junction of Owen with Buller Rivers."

JULIUS HAAST.

#### No. 67.

Memorandum by the SECRETARY for CROWN LANDS.

WITH the utmost deference I beg leave to differ from the Memorialists when they assert that the investigation carried on by me was "partial."

I fear the purchasers are themselves not perfectly free from any suspicion of bias in this matter, and are not the best judges in their own cause. They are possibly a little annoyed at an inquiry resulting in an opinion opposed to their assumed, but untenable, claims.

But they are certainly grievously incorrect in their assertion that Mr. Haast's reply to my telegram arrived "during the investigation." The reply from Mr. Haast is dated 12th January, and addressed to me at Wellington, eighteen days after I had sent my Report in to the Colonial Secretary, which was on the 24th of December. The telegram was to the effect that the mountain marked "Mount Owen" on Mr. Burnett's map was the one so named by him (Mr. Haast). I am not going to argue this part of the case over again, except so far as to remark that everything I have heard since the investigation was concluded tends to confirm me in the opinion it inclined me towards—that Mr. Haast saw one spur of a mountain range, which on the spot he called Mount Owen, and afterwards in other parts of his Report and in Nelson, alluded to and described as Mount Owen the group of mountains called by that name by Mr. Rochfort, the Government Surveyor; by Mr. Richmond, the Crown Lands Commissioner (who officially named them so on a map produced during the inquiry); by all the residents and the public of Nelson ever since; and lastly, by the miners at Wangapeka. This group is found by Mr. Marchant to be between 5,000 and 6,000 feet high, while the spur on Mr. Burnett's map is about 3,000 feet high—conclusive proof, if any were needed, that the mountain which Mr. Haast saw from the Buller River mouth and Nelson beach was the mountain group on the Commissioner's official map, and not that on Mr. Burnett's.

But the purchasers, with an amount of forgetfulness that perfectly astonishes me, seem to assume that I in some way decided, or attempted to decide, which was Mr. Haast's Mount Owen, overlooking or ignoring the fact that in my Report I came to *no positive conclusion* on the subject at all. I distinctly left it an open question, though clearly of opinion that the probability was that the facts were those stated above. But had Mr. Haast's answer arrived before the investigation was concluded, I do

not see that it would have made any difference. Allow that Mr. Haast named the low spur on Mr. Burnett's map "Mount Owen," the question still remains whether that circumstance (apparently lost sight of by himself afterwards) is to outweigh the much more important circumstances in favour of the other position.

Lastly, I beg the purchasers to believe that I consider the strongest objection to their claim is the illegality of the purchases on other grounds than that of the lands being or not being within a gold field, viz., that the lands had not been classified by the Board as distinctly required by the law, and that the applications were not such as even, had the land really been rural, the spirit of the Regulations notoriously requires, even if their letter does not.

18th February, 1870.

(Signed) ALFRED DOMETT.

### No. 68.

Copy of Telegram from Mr. DREW to the Hon. the COLONIAL SECRETARY.

Nelson, 19th February, 1870.

YOUR telegram states, "No question about Wangapeka immediately pending." Does that mean that Government have not decided whether to issue Crown Grants or not? If so, purchasers will have no means of preventing Wardens from registering claims on sold land; and will Government instruct Wardens not deal with sold land until after settlement of general question.

Hon. Colonial Secretary, Wellington.

HENRY DREW,  
Chairman of Purchasers' Committee.

### No. 69.

Copy of a Letter from the Hon. the COLONIAL SECRETARY to Messrs. H. DREW, A. CULLIFORD, and others.

Colonial Secretary's Office,  
Wellington, 21st February, 1870.

GENTLEMEN,—

I have the honor to acknowledge the receipt of your memorial of the 15th instant, (transmitted by His Honor the Superintendent of the Province of Nelson,) relative to the purchases of land which you claim to have made in the District of Wangapeka. I have also received Mr. Drew's telegram of the 19th instant, on the same subject.

As some of the terms in that memorial, and in the reading of the enclosure, reflect on the Secretary for Crown Lands, who conducted the inquiry into the sales in question, I referred your memorial to that officer, and enclose for your information a copy of his remarks thereon.

The relative positions of the Provincial and General Governments in reference to these disputed purchases, and the course which should be pursued in the event of the Provincial Government and the land purchasers considering that the inquiry has not proved the inclusion of the land within the gold fields, will be best ascertained from the letter of His Honor the Superintendent, of the 24th December last, and from my reply of the 10th ultimo, copies of which I enclose. *Vide ante.*

It will be seen from his letter of the 24th of December last, that His Honor considers that "no action" in respect of these lands "should be taken by the Provincial Government until the decision of the Supreme Court shall have been given;" and requests the General Government, "with the view to obtaining that decision at an early date," to decide what "course they intend taking with regard to the sales, with as little delay as possible." His Honor further states the desirability of ascertaining "whether a line drawn from the mountain known by the miners as Mount Owen to Mount Arthur will exclude the land sold or not;" and also, "should it be proved to be within the line, it seems probable that the purchasers of the land would yield their claim to it in preference to fighting the question of boundary in the Supreme Court."

As it has now been ascertained beyond doubt, that a line drawn (to use His Honor's words) "from the mountain known by the miners as 'Mount Owen' to Mount Arthur, includes the land within the gold fields," it rests with yourselves to decide whether you are prepared to justify the anticipation of the Superintendent, or would prefer to litigate the question of boundary in the Supreme Court. If the latter course is to be pursued, you will perceive, from my reply to the Superintendent of the 10th ultimo, that the Colonial Government agrees with him "that the decision of the Supreme Court should be obtained before any further action is taken to complete the sales," and that the Government have stated what steps they are advised should be adopted by the Waste Lands Board and the Provincial Government, on whom the duty would appear to rest, in order to have determined judicially the question at issue.

The General Government see no necessity for their obtaining, as desired by you, the services of Dr. Haast, with a view to reopening the inquiry which has just been completed. If you wish to have recourse to the Supreme Court, it will be for you to obtain such evidence as you may think fit to support your case.

I have not yet received Mr. Marchant's final Report, but as soon as I receive it I will communicate it to His Honor the Superintendent.

Messrs. H. Drew, A. Culliford, E. Everett, and others,  
(care of H. Drew, Esq.), Nelson.

I have, &c.,  
W. GISBORNE.

### No. 70.

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

Nelson, 31st January, 1870.

IN case General Government decide that Wangapeka should at once be declared a gold field, I shall be glad if you will arrange for an able and experienced Warden to come to Nelson at earliest possible

moment, to take temporary charge, as I think it would be impolitic to send Mr. Broad, if another equally able man can be got.

The Colonial Secretary, Wellington.

OSWALD CURTIS,  
Superintendent.

No. 71.

Copy of Telegram from the Hon. W. GISBORNE to the SUPERINTENDENT, Nelson.  
Wellington, 31st January, 1870.

It appears to the Government, from the reports hitherto received of the survey (Wangapeka), that the land supposed to be purchased is included within a line drawn from the mountain known by the miners as Mount Owen to Mount Arthur, and therefore included within the gold fields. The Government presumes, therefore, that, as intimated in the latter part of your letter of 24th December last, the purchasers will probably yield their claims. There is no objection, as far as the Government are aware, to the extension of the South-west Gold Fields. I will telegraph to the Superintendent of Otago, and ask him if he knows of any able Warden or ex-Warden, who could temporarily take charge of any new gold field in Nelson, and if so, to communicate with you by telegraph.

His Honor the Superintendent, Nelson.

W. GISBORNE.

No. 72.

Copy of Telegram from the SUPERINTENDENT, Nelson, to the Hon. W. GISBORNE.  
Nelson, 31st January, 1870.

My telegram this morning about Warden referred to temporary arrangements, in case of immediate proclamation of Wangapeka.

For permanent officer I strongly recommend Mr. Kynnersley, and I believe his appointment would be highly approved by miners. I believe he will reach Wellington from England about the middle of February.

The Colonial Secretary, Wellington.

OSWALD CURTIS,  
Superintendent.

No. 73.

Copy of Telegram from the SUPERINTENDENT, Nelson, to the Hon. W. GISBORNE.  
Nelson, 1st February, 1870.

PROVINCIAL Government, understanding from your telegram of yesterday that result of Mr. Marchant's survey is to prove that land sold at Wangapeka is within South-west Gold Fields, and that General Government now sees no objection to exercise by Superintendent of delegated powers, have resolved to cancel existing Proclamations of South-west and Collingwood Gold Fields, and to issue new one, including both and Wangapeka country under title of Nelson Gold Fields. Will it be necessary to reappoint Wardens and other officers?

The Colonial Secretary, Wellington.

OSWALD CURTIS,  
Superintendent.

No. 74.

Copy of Telegram from the Hon. W. GISBORNE to the SUPERINTENDENT, Nelson.  
Nelson, 2nd February, 1870.

I AM advised that the Court will have to be reconstituted and Wardens appointed. When a change is made in the district, let me know names of Wardens, that no time may be lost. Appointments will have to be made by Governor at Auckland.

His Honor the Superintendent, Nelson.

GISBORNE.

WANGAPEKA LAND SALES.

53 C.—No. 1.

No. 75.

The Hon. W. GISBORNE to His Honor the SUPERINTENDENT, Nelson.

(No. 177.)

SIR,—

Colonial Secretary's Office, Wellington, 4th May, 1870.

Adverting to your telegram of the 9th December last, and to the official inquiry held at the Wangapeka land sales, I have the honor to enclose a statement showing in detail the expenses, amounting to £340 6s. 4d., paid by the General Government on account of that inquiry up to the 31st March, 1870, and I have to request your Honor to be good enough to cause that amount to be repaid into the Colonial Treasury.

There are, I believe, a few outstanding claims on this account, of inconsiderable amount, the particulars of which when paid I will communicate to your Honor.

His Honor the Superintendent, Nelson.

I have, &c.,  
W. GISBORNE.

Enclosure in No. 75.

STATEMENT showing in detail the EXPENSES paid by the General Government on Account of the WANGAPEKA INQUIRY to 31st March, 1870.

Date of Payment.	To Whom Paid.	Particulars.	Date of Service.	Amount.
1870.				
January 15 ...	A. Domett ...	Travelling expenses ... ..	8th Dec., 8th Jan. ...	£ s. d. 35 7 0
February 16 ...	F. Wakefield ...	Pay (proportion of) ... ..	January ... ..	15 10 0
" " ...	" ...	Travelling expenses ... ..	7th Dec., 12th Feb....	44 5 0
March 2 ...	" ...	Pay (proportion of) ... ..	February ... ..	12 0 0
" 19 ...	N.Z.S.N. Co. ...	Passages—Mr. Marchant ... ..	Dec. and Feb. ... ..	6 0 0
" 23 ...	F. Wakefield ...	Extra expenses ... ..	" " ... ..	7 5 10
" " ...	J. W. A. Marchant...	Travelling do. ... ..	3rd Jan., 16th Feb. ...	63 6 6
" 14 ...	Burke and O'Brien...	Conveying telegram and box of specimens— Wangapeka to Nelson	" " ... ..	8 0 0
" 22 ...	Thomas Squires ...	Labourer, overtime ... ..	January, February ...	7 2 6
" 23 ...	H. P. Knyvett ...	Assistant Surveyor, wages ... ..	6th Jan., 17th Feb. ...	30 0 0
" " ...	W. Roberts ...	Labourer, wages ... ..	" 24th " ... ..	23 10 0
" " ...	C. Shadden ...	" " ... ..	" 23rd " ... ..	22 10 0
" " ...	T. Squires ...	" " ... ..	" 23rd " ... ..	22 10 0
" " ...	J. W. Sutcliffe ...	Provisions for labourers ... ..	January ... ..	0 17 4
" " ...	W. Milner ...	Canvas covering for tent, A. ... ..	February ... ..	1 7 0
" " ...	Thos. Newton ...	Hire of conveyance, 27 miles on road to Wangapeka Reef	January ... ..	8 0 0
" " ...	G. Down ...	Pay as guide to Mount Arthur ... ..	17th January ... ..	1 1 0
" " ...	J. Gibbs ...	Conveying provisions to Mount Owen ... ..	16th February ... ..	4 0 0
" " ...	D. McKennon ...	" messages " ... ..	" " ... ..	1 10 0
" " ...	J. Dellow ...	" provisions " ... ..	" " ... ..	2 0 0
" " ...	John Lynds ...	" camp stores " ... ..	" " ... ..	1 0 0
" " ...	Chas. Carter ...	" " ... ..	" " ... ..	1 0 0
" " ...	Jas. Baggott ...	" " ... ..	" " ... ..	1 0 0
" " ...	J. Young ...	" " ... ..	" " ... ..	3 0 0
" " ...	H. P. Knyvett ...	Horse hire ... ..	23rd " ... ..	3 0 0
" " ...	J. G. Knyvett ...	" " ... ..	16th " ... ..	2 12 6
" " ...	Thos. Fawcett ...	" " ... ..	19th " ... ..	2 5 0
January 19 ...	John Taylor ...	Hire of packhorse ... ..	" " ... ..	1 10 0
February 5 ...	M. Green ...	One billy and one drawing board, B. ... ..	5th " ... ..	0 14 6
January 10 ...	W. H. Phillips ...	Horse feed ... ..	10th January ... ..	0 3 0
" 28 ...	J. Dellow ...	Accommodation for men with Mr. Marchant ... ..	" " ... ..	0 10 0
" 19 ...	J. W. Sutcliffe ...	Provisions supplied ... ..	" " ... ..	2 0 0
" 18 ...	J. Taylor ...	Meals for labourers ... ..	" " ... ..	0 9 2
February 22 ...	S. Gaukrodger ...	Horse hire, &c. ... ..	" " ... ..	3 12 0
January 29 ...	J. Chandle ...	Refreshments for men with Mr. Marchant ... ..	19th " ... ..	0 18 0
" 18 ...	P. C. Gowland ...	One axe and three quart billies, A., (one expended, B.)	12th " ... ..	0 10 0
				340 6 4

The articles marked A. were handed to Sergeant Goodall, Nelson Police. Those marked B. were expended (lost or destroyed) in the service.

Treasury, Wellington, 3rd May, 1870.

C. T. BATKIN,  
Paymaster-General.

