

Enclosure in No. 9.

Messrs. BROWN and CAMPBELL to the Hon. W. GISBORNE.

SIR,—

Auckland, 4th February, 1871.

The Provincial Council of Auckland introduced and passed a Bill called the One Tree Hill Reserve Bill, appropriating that land for educational purposes for the inhabitants of Onehunga, and as we have never given up our claim to this property, which we consider was improperly taken possession of by the Government, and as the Hon. Dillon Bell promised Mr. James Farmer that during the coming Session he would introduce a Bill for the final settlement of the whole of the outstanding land claims, we addressed His Honor the Superintendent of this Province to that effect, and requested him to reserve his assent to said Bill, which he has done; and we now respectfully beg that you will recommend His Excellency to withhold his assent to the One Tree Hill Reserve Bill until Mr. Bell's action can be taken in the General Assembly.

We have, &c.,
BROWN AND CAMPBELL,
By their Attorney,
JAMES T. MACKELVIE.

The Hon. the Colonial Secretary, Wellington.

No. 10.

The Hon. H. SEWELL to His Honor T. B. GILLIES.

SIR,—

Colonial Secretary's Office, Wellington, 20th March, 1871.

I have the honor to acknowledge the receipt of Mr. Lusk's letter of the 22nd February, enclosing fresh parchment copies of the Acts passed in the recent Session of the Provincial Council of Auckland which your Honor had reserved for the Governor's decision, the originals of which were transmitted in your Honor's letter of the 4th February, and spoiled by immersion in the water on the occasion of the wreck of the "Airedale."

I have now to convey to your Honor the decision of the Government in reference to these Bills.

"The One Tree Hill Reserve Act, 1871," has already been disposed of in my letter of the 10th instant.

The Government are advised that "The Bay of Islands Coal Company (Limited) Lease Act, 1871," is *ultra vires*. I enclose, for your Honor's information, the copy of the opinion of the Attorney-General in reference to this Bill; and I have also directed that a copy shall be sent to the Secretary of the Company.

You will perceive that in the opinion of the Attorney General this Bill is *ultra vires*; but, considering all the interests involved in the question, the Government have decided to advise His Excellency to assent to it. It must, however, be understood that although the Government have not advised His Excellency to disallow the Bill, they must not therefore be considered as undertaking any responsibility for the validity of the lease of the coal mine to the Company. But if your Honor and the Company will apply to the General Assembly for an Act to validate the lease, the Government will do all in their power to support such an Act, and to facilitate its passing through its stages in both Houses of Parliament.

I have especially to point out to your Honor, as indeed you will gather from the Attorney General's opinion, that the present Waste Lands Act of the Province of Auckland is defective as regards leases of mineral lands, and I would suggest that you should submit for the consideration of the Government a Bill to be introduced into the next Session of Parliament to rectify the omission, and to provide a proper system of regulations for mineral lands. And this Bill may provide for the validation of the lease of the Bay of Islands Coal Mine.

"The Mount St. John Reserve Act, 1871," is *ultra vires* for the same reason as that given in regard to "The One Tree Hill Reserve Act, 1871;" *i.e.*, that no grant from the Crown of the land having yet been made to the Superintendent, the Provincial Legislature is not in a position to deal with it. His Excellency will, therefore, be advised to disallow this Bill.

His Excellency the Governor will be advised to assent to the Bill intituled "The Auckland Harbour Board Act, 1871," although the Government is advised that the Bill is open to objection. I enclose the copy of the opinion given by the Attorney-General in reference to this Bill, to which I beg to draw your Honor's attention.

I have, &c.,
HENRY SEWELL
(in the absence of Mr. Gisborne).

His Honor the Superintendent, Auckland.

Enclosure 1 in No. 10.

Memorandum by the ATTORNEY-GENERAL.

"THE Bay of Islands Settlements Act, 1870," repeals "The Bay of Islands Settlements Act, 1858," and provides that all the lands within the boundaries of settlement, as set forth in the Schedule to the Act of 1858, shall be deemed to be ordinary waste lands within the Province of Auckland.

"The Bay of Islands Act, 1858," authorized the Governor to include within the settlement lands other than those specified in the Schedule. As a matter of fact, other lands were included: therefore the boundaries of the Bay of Islands Settlement are not correctly set forth in the Schedule to the Act