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H.B.P.C.



PROVINCE OF WELLINGTON, NEW ZEALAND.

PROCEEDINGS

OF THE

PROVINCIAL COUNCIL

OF

WELLINGTON.

—◆—
1857. SESSION V.
—◆—

WELLINGTON:

Printed by Authority,

BY GEORGE WATSON, LAMBTON QUAY, NORTH.

—
1857.



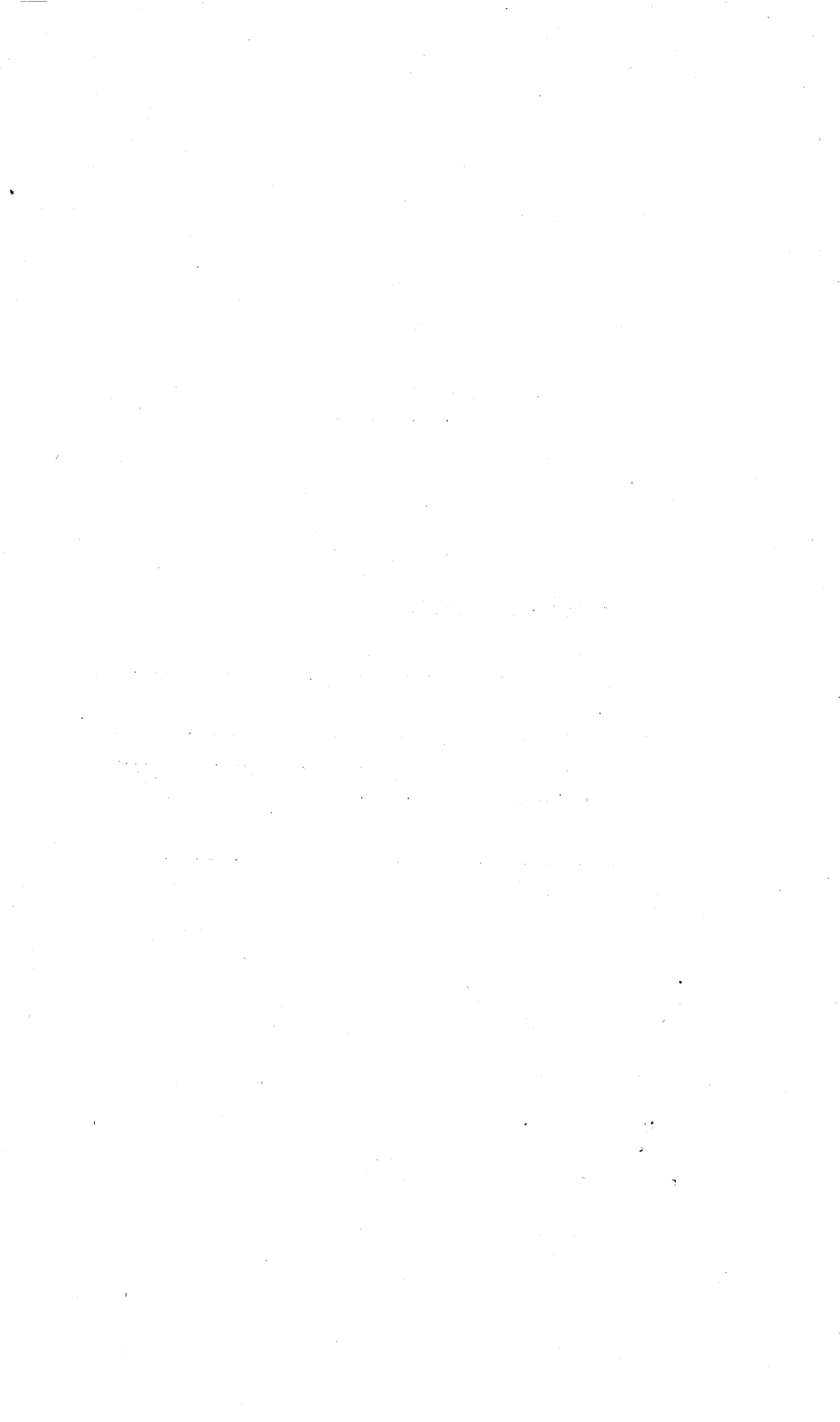
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JOURNAL
OF THE
PROCEEDINGS
OF THE
Provincial Council
OF
THE PROVINCE OF WELLINGTON,
NEW ZEALAND.
TUESDAY, JUNE 2nd, 1857.
SESSION V.

THE Council met at three o'clock, pursuant to a Proclamation issued by His Honor the Superintendent, bearing date the twelfth day of May, eighteen hundred and fifty-seven—which Proclamation was read.

Members Present.

The Honorable the Speaker.		The Provincial Solicitor.
The Chairman of Committees.		The Chief Land Commissioner.
The Provincial Secretary.		The Provincial Treasurer.

Messrs. Allen, Blyth, Carpenter, Dorset, Duncan, Edwards, Hart, Handley, Johnston, Ludlam, Masters, Milne, Plimmer, Reading, Renall, Schultze and Skey.

The Speaker opened the Proceedings of Council by reading the Prayer adopted by the House of Representatives.

The Speaker then ushered in His Honor the Superintendent who delivered the following Address and retired.

ADDRESS

MR. SPEAKER AND GENTLEMEN OF THE PROVINCIAL COUNCIL,—I have convened you thus unexpectedly in consequence of the "Scrip Extension," and "Hutt Compensation" Acts having been disallowed, on the ground that they ought to have been reserved for the Governor's assent.

As these Acts were passed for the purpose of affording redress to a numerous body of settlers, who have already on the faith of their being carried out, entered into contracts and engagements, which this disallowance will prevent them fulfilling, I have felt it my duty, in order to obviate the dissappointments and hardships which would otherwise be entailed, to lose no time in asking you to re-enact those measures, upon the understanding that they will be reserved for His Excellency's assent.

I at the same time gladly avail myself of the opportunity thus afforded, to call your attention to the singular plea, upon which the Act authorizing me to raise an additional loan of £25,000, has also been disallowed, and by explaining the effect of that disallowance, to remove any anxiety in regard to it that may possibly exist in the public mind.

The Colonial Secretary in his despatch of the 11th of April, intimates that it has been disallowed, because, "the Loan intended to be raised under this Act, is for the express purpose, amongst other things, of constructing a Lighthouse, while the 19th section of the Constitution Act prohibits any Provincial Legislature from making any law for the erection and maintenance of Lighthouses."

If however you will refer to the Constitution Act, you will find that it contains no such prohibition; but on the contrary, that it clearly places Harbour Lights under the control of the Provincial Councils. For as the rule adopted in the Constitution Act (which confers upon the Provincial Legislatures equally as upon the General Assembly, a general power of legislation) is not to specify the powers granted to the Provincial Councils, but to enumerate the powers expressly withheld from them, the same rule must be applied in construing the section relating to Lighthouses. By that section, then, the Provincial Councils are restricted from making laws for the erection and maintenance—not of Beacons and Lighthouses—but of Beacons and Lighthouses *on the coast*. Harbour Beacons and Lighthouses are thus clearly excluded from the prohibition—for, if it had been intended to include them within

it, either the words "*on the coast*" would have been omitted, or the words "*Harbour Lights*" would have been added. But as the principle of the Constitution Act is, that the Provincial Councils can legislate upon all subjects which are not expressly excepted from their jurisdiction, it follows that Harbour Light-houses, not being amongst the excepted subjects—not being included in the restriction imposed as to Coast Lights—the Provincial Councils are fully empowered to make laws for their erection and maintenance.

Unless therefore the Light on Pencarrow Head is a Coast Light, the objection raised by Ministers to the Loan Act, falls to the ground.

But that it is a Harbour light, has been admitted on all sides, and by all parties, and by none so explicitly as by his Excellency's present Ministers, as the following facts will abundantly prove.

In the first place,—a light has been maintained by the Province for several years, and its maintenance has year after year been acquiesced in and sanctioned by the General Government. As it is not proposed to change the site, but simply to substitute for the present light one of a superior order, it is certainly difficult to understand, how the General Government can now object to that which they have so long sanctioned, or can now declare that to be a contradiction of the Constitution Act, which they have hitherto maintained to be strictly within the power of the Provincial Councils, unless indeed they are prepared to contend, that while you have power to erect and maintain a light so imperfect that it is calculated rather to mislead, you have no right to erect and maintain a light of such a description as would render the access to this harbour at all times perfectly safe and easy.

2ndly. The Select Committee of the House of Representatives, appointed during the first Session of the General Assembly to enquire into and report upon the subject of Light-houses, reported that in their opinion the Light on Pencarrow Head must be considered a Harbour Light, and should be established and maintained exclusively by this Province.

3rdly. So fully has this report been adopted by the present Ministry that, in October last, they drew up a minute, which was signed by the Colonial Treasurer, and was then transmitted here for the guidance and information of the Provincial Government: in that minute, referring to Light-houses on Pencarrow Head and at Manakau, they say that, "those being more of local concern—the charge should fall on

the Provinces of Wellington and Auckland respectively. The Colony might however undertake these works *under arrangement with the Provinces*, and they add, "that it is roughly estimated that the cost of each Lighthouse would not be less than £10,000."

4thly. Guided by these instructions, I intimated to them in a Despatch, dated the 6th February, that "it was in the contemplation of the Provincial Government to take immediate steps for the erection of a Harbour Light on Pencarrow Head," and begged them to furnish me with the plans and specifications of it prepared by Mr. Roberts, in 1852, by order of Sir George Grey. Instead of raising any objection, or warning me against violating the Constitution Act, they at once forwarded the plans with a request that they might be returned.

Having regard then to these facts, I feel bound to say—that after having so repeatedly declared that the Light on Pencarrow Head was a Harbour Light—after having done all in their power to induce you to undertake its erection—and after being fully aware that you must some time since have taken steps involving an outlay according to their own estimate of £10,000, that the course pursued by the Ministry in this matter, is not only wholly unjustifiable, but that it is calculated to excite grave suspicion, that their disallowance of the Loan Act has been prompted by a desire to embarrass the Provincial Government, and has been dictated by Provincial jealousies.

But, in truth, they have themselves refuted and abandoned their own objection—for while they have disallowed the Loan Act because it contained an Appropriation for the Lighthouse, they have not disallowed the Appropriation Act, which makes precisely the same provision. If the latter be not an infringement of the Constitution Act, neither can the former be. If they were justified in disallowing the Loan, then they were equally bound to have disallowed the Appropriation Act.

It is however satisfactory to know that the disallowance is wholly inoperative.

The power of the Council to pass, and of the Superintendent to assent, on behalf of the Governor to an Act authorizing the raising of a Loan to any amount they might please, is not and cannot be disputed. If indeed doubts on this point had previously existed in the minds of any, they must have been entirely removed by the circular notice recently issued to Superintendents, directing them in *future* to reserve all Loan Bills for the Governor's assent; for this notice is a distinct declaration on the part of the General Government that Loan Bills passed prior to its being issued, did not in any way require the Governor's assent or sanction.

What then is the effect of the disallowance by the Governor of an Act of the

Provincial Council? The Constitution Act is clear and explicit on this point. After declaring in the 29th Section that "it shall be lawful for the Governor at any time within three months after any Bill shall have been received by him, to declare by proclamation his disallowance of such Bill;" it adds, "and such disallowance shall make void and annul the same, from and after the day of the date of such Proclamation or any subsequent day to be named therein." In other words—it declares that the disallowance of any such Ordinance shall not have any retrospective operation, and shall not render invalid or void any act done under the authority, or in pursuance of any such Ordinance, before the date of the Proclamation of its disallowance.

In the present case the facts are briefly these:—The Loan Act was passed on the 20th February, and the Colonial Secretary's Despatch signifying the Governor's disallowance is dated the 11th of April; but the £25,000 had been raised, and placed at the disposal of the Provincial Government in March. The Act had, as far as raising the £25,000, been carried out and completed nearly a month before his Excellency disallowed it. The disallowance therefore not having any retrospective operation—not rendering invalid or void any Act done under the authority or in pursuance of the Loan Act prior to the date of such disallowance, is, as far as the Loan is concerned, a mere nullity, and might just as well not have been issued.

And I am happy to say, that it is equally void and inoperative as far as regards the appropriations specified in the Loan Act, for a Lighthouse, and for the Wanganui and Wai-o-hini Bridges; for the same appropriations are contained in the Appropriation Act, which has not been disallowed.

As the Governor's disallowance therefore neither invalidates the Loan, nor in the slightest degree impairs the credit of the Province, or the engagements it has contracted, it is not necessary that you should take any legislative action in the matter.

With regard to the Lighthouse—I may state that it has been ordered—that it will probably be landed here in the course of the next six months, and that no time shall be lost in erecting it.

Permit me, in conclusion, to tender my sincere congratulations that the attempt made to prevent the erection of a great public work, which, with the prospect of Steam Communication being established with England, has become more than ever necessary, and to arrest the progress of the other internal improvements at present being carried on in this Province, has been so entirely defeated.

I. E. FEATHERSTON,
Superintendent.

Council Chamber,
June 2nd, 1857.

The Speaker read a communication from Mr. Watt, a Member for the Wanganui District, explanatory of his absence from Council.

The Provincial Secretary informed the Council with regard to the business which the Government proposed to bring before it during the present Session, and then moved the suspension of Standing Order No. 27, that motions without notice might be made.

After some discussion this motion as relates to Bills agreed to.

On the motion of the Provincial Secretary His Honor's Address ordered to be printed.

Mr. Renall moved for leave to bring in a Bill to authorize the Superintendent to issue Land Scrip to satisfy awards of Commissioners under Act Session II. No. 12 of the Provincial Council.

Leave granted, and this Bill introduced and read a first and second time and committed.

The Chairman reported the Bill as passed in the last Session No. 15, which report was adopted.

The Act then read a third time and passed and its Title allowed.

The Chief Land Commissioner moved for leave to bring in a Bill to extend the time for adjudication on certain claims to Scrip.

Leave granted, and this Bill read a first and second time and committed in the same form as No. 2 of last Session.

The Council having resumed the Chairman brought up the Report which was adopted and this Act was then read a third time and passed and its Title allowed, when Council adjourned at twenty minutes to five o'clock until Wednesday next, the 3rd day of June at two o'clock.

NOTICE OF MOTIONS FOR WEDNESDAY, JUNE 3rd.

Questions.

Mr. Allen to ask the Provincial Secretary—"As to what steps have been taken by the Government towards the erection of a Bridge across the Wai-o-hini River: a sum for that purpose having been placed on the Estimates last Session."

Mr. Duncan to ask the Provincial Secretary—"Whether the Government intend to commence making the road from the Rua Taniwha to the Port of Napier within a short period."

Mr. Schultze to ask the Chief Land Commissioner—"Whether the Government intend to proclaim the Fencing Act in the Rangitikei District, so as to give the purchasers of the land advertized for sale there the full value of their money."

Mr. Hart to ask the Provincial Secretary—"Whether the Executive Council were aware that the Bills disallowed by the Governor ought to have been reserved, when they recommended His Honor the Superintendent to give his assent to them."

Motions.

Mr. Renall to move—"That in the opinion of this House, it is the duty of the Government to cause the erection of a Bridge over the Wai-o-hini River with the least possible delay."

The Provincial Secretary to move—"That the papers laid on the Table by him be printed."

The Provincial Secretary to move—"A reply to His Honor's Address."

The Provincial Secretary to move the adoption of the following Resolutions:—

"That this Council has heard with considerable surprise that the Loan Act, Sess. iv., No. 9, has been disallowed by His Excellency acting under the advice of his Responsible Ministers.

"That it is however a matter of satisfaction to the Council to ascertain that this Province has been rescued, by the promptitude of its Executive Government, from the injury calculated to have been inflicted on it by such disallowance.

"That nevertheless, although thus relieved from any present difficulty, this Council cannot fail to perceive the drift of the Circular issued to Superintendents of Provinces, instructing them to reserve all Bills for raising Money for the signification of His Excellency's pleasure thereon.

"That whilst this Council refrains from more particularly designating the real character of this Act of His Excellency's present advisers, it is bound to record its opinion, that such a course of policy has a most dangerous, anti-provincial, and unconstitutional tendency; and, as their Representatives, to express the determination of the Inhabitants of the Province of Wellington, never to abdicate the high trust committed to them of developing the resources, and advancing the local interests of their Province."

The Provincial Treasurer to move the adoption of the following Resolutions:—

"That this Council having had laid before it the correspondence and other papers connected with the design of erecting a Lighthouse for the Harbour of Wellington on Pencarrow Head, and having been informed that His Excellency the Governor has been advised to disallow a Loan Act passed in the last Session of this Council, because a portion of the money intended to be raised was to be expended in the erection of the said Lighthouse, desires to record its opinion that for the following reasons the attempted interference of His Excellency's Government is uncalled for and unjust:—

“ Because the intended Lighthouse is only to take the place of the present inefficient one, for the maintenance of which, sums of money have been annually voted by this Council, to which votes no objections have ever been made either by His Excellency, or his predecessors—

“ Because the Constitution Act only prohibits the erection and maintenance of Coast Lights, while the Lighthouse on Pencarrow Head has been declared to be a Harbour Light by a Committee of the House of Representatives, and is further spoken of in a memorandum signed by the then Colonial Treasurer on behalf of the General Government, as a matter which must be provided for by this Province alone, in contradistinction to another Lighthouse, which he proposed should be erected on Stephens' Island—

“ And, Because that in answer to a letter addressed by His Honor the Superintendent to the Honorable the Colonial Secretary asking for certain designs and estimates for a Lighthouse on the proposed site, and stating as the reason for the request that it was the intention of the Provincial Government to erect the Lighthouse, such designs, &c., were forwarded by return of post, without any expression of doubt as to the right of the Province to act for itself in this matter.”

“ This Council, therefore, expresses its cordial concurrence in the steps which the Executive of this Province have taken for the purpose of causing the Lighthouse to be erected, and respectfully but earnestly recommend His Honor the Superintendent to proceed with the least possible delay, in a work of such acknowledged necessity and importance.”

The Provincial Secretary to move the printing of the Papers laid by him on the Table, on the subject of Immigration, and the Harbour Lighthouse.

WEDNESDAY, JUNE 3RD.

The Speaker took the chair at two o'clock.

Present—22 members.

Also, Messrs. Holdsworth and Lyon re-elected as members for the City of Wellington.

Absent—Messrs. Ludlam, Renall, Wakefield, and Watt.

The Council met pursuant to adjournment.

The minutes of the last meeting read.

Question—Compensation Claimants.

Mr. Carpenter called the attention of Council to the subject of certain claims which had been entertained by the Compensation Commissioners, and asked the Government to cause a list of the same with the amount awarded to each to be published.

The Chief Land Commissioner replied that the same should be published.

Question—Registrar of Immigration.

Mr. Hart, by permission, no notice of such question having been given, asked the Provincial Secretary for information with regard to the appointment of Registrar of Immigration.

The Provincial Secretary in reply, stated that the duties of Registrar of Immigration consist in collecting the monies due from Immigrants—in providing for their welfare and disposal in the Province; and that hitherto these efforts have been highly beneficial.

Question—Wai-o-hini Bridge.

Mr. Allen, agreeably to his notice, asked for information relative to the proposed Bridge over the Wai-o-hini River.

The Provincial Secretary in reply stated, that Mr. Roy, the Engineer of Roads, would proceed to Grey Town next week and would then take soundings of the river in order to enable him to draw out a specification and prepare plans for a Bridge.

That these would, it is anticipated, be ready so that tenders may be called for in the course of two or three months and the work may be commenced, should there be any tender at a reasonable rate, at the beginning of summer.

Question—Fencing Act Rangitikei.

Mr. Schultze, agreeably to his notice, asked if it were the intention of the Government to proclaim the Fencing Act in the Rangitikei District.

The Chief Land Commissioner replied, that the Government would be prepared to extend the operation of the Fencing Act to the Rangitikei District in the event of its receiving a requisition from a majority of the Settlers to that effect.

Question—Rua Taninaha Road.

The Provincial Secretary, on the subject of the question entered in Mr. Duncan's name, stated, that Mr. Gill had been appointed to that undertaking and that the requisite tools had been shipped, on the arrival of which the road in question would be commenced.

Question—Disallowance of Bills.

Mr. Hart proposed the question entered in his name relative to the Bills of last Session disallowed by the Governor.

The Provincial Secretary replied, that the Provincial Government had no intention whatever of running counter to the General Government by not reserving the Bills No. 2 and No. 15 of last Session.

The Reply.

The Provincial Secretary, agreeably to his notice, moved the adoption of the following Reply to His Honor's address:—

“We beg to thank your Honor for the address with which you opened this Session and to assure you that we entirely concur in its spirit and are prepared to afford you our co-operation.”

Question put and carried.

The Provincial Secretary, agreeably to his notice, moved the adoption of the resolutions as entered in his name.

Mr. Carpenter moved, seconded by Mr. Hart, as an amendment, the omission of certain clauses.

Discussion ensued.

Amendment put and lost—the question being “that the words proposed to be omitted stand part of the question.”

Original motion then put and carried, and these resolutions accordingly adopted.

Resolutions.

The Provincial Treasurer moved the adoption of the Resolutions as entered in his name—motion agreed to and that the Speaker be requested to forward a copy of the same to the General Government.

Council Paper.

On the motion of the Provincial Secretary, the correspondence laid by him on the table ordered to be printed as Council Papers.

Prorogation—The business of the Session being concluded, the Speaker then ushered in His Honor the Superintendent who prorogued the Council at quarter past five o'clock.

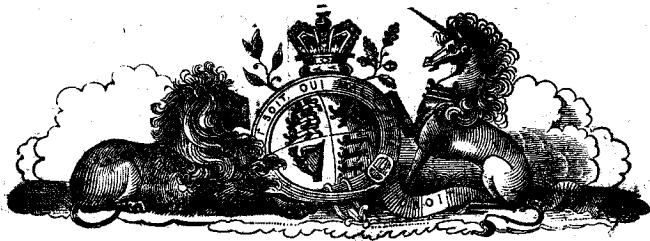
CHARLES CLIFFORD,
Speaker.

H. S. HARRISON,
Clerk of Council.

Council Chamber,
June 3, 1857.

I. E. FEATHERSTON.
Superintendent.

Council Paper.



SPEECH OF HIS HONOR THE SUPERINTENDENT OF WELLINGTON DELIVERED
AT THE OPENING OF THE FIFTH SESSION OF THE PROVINCIAL COUNCIL
TUESDAY, 2ND. JUNE, 1857.

MR. SPEAKER AND GENTLEMEN OF THE PROVINCIAL COUNCIL,—I have convened you thus unexpectedly in consequence of the "Scrip Extension," and "Hutt Compensation" Acts having been disallowed, on the ground that they ought to have been reserved for the Governor's assent.

As these Acts were passed for the purpose of affording redress to a numerous body of settlers, who have already on the faith of their being carried out, entered into contracts and engagements, which this disallowance will prevent them fulfilling, I have felt it my duty, in order to obviate the disappointments and hardships which would otherwise be entailed, to lose no time in asking you to re-enact those measures, upon the understanding that they will be reserved for His Excellency's assent.

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The Colonial Secretary in his despatch of the 11th of April, intimates that it has been disallowed, because "the Loan intended to be raised under this Act, is for the express purpose, amongst other things, of constructing a Light House, while the 19th section of the Constitution Act prohibits any Provincial Legislature from making any law for the erection and maintenance of Light Houses."

If however you will refer to the Constitution Act, you will find that it contains no such prohibition; but on the contrary, that it clearly places Harbor Lights under the control of the Provincial Councils. For as the rule adopted in the Constitution Act, (which confers upon the Provincial Legislatures equally as upon the General Assembly, a general power of legislation), is, not to specify the powers granted to the Provincial Councils, but to enumerate the powers expressly withheld from them, the same rule must be applied in construing the section relating to Light Houses. By that section, then, the Provincial Councils are restricted from making laws for the erection and maintenance,—not of Beacons and Light Houses—but of Beacons and Light Houses *on the coast*.

Harbor Beacons and Light Houses are thus clearly excluded from the prohibition,—for, if it had been intended to include them within it, either the words “on the coast,” would have been omitted, or the words “Harbour Lights” would have been added. But, as the principle of the Constitution Act is, that the Provincial Councils can legislate upon all subjects which are not expressly excepted from their jurisdiction, it follows, that Harbor Light Houses, not being amongst the excepted subjects, not being included in the restriction imposed as to Coast Lights,—the Provincial Councils are fully empowered to make laws for their erection and maintenance.

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But that it is a harbour light, has been admitted on all sides, and by all parties, and by none so explicitly as by his Excellency's present Ministers, as the following facts will abundantly prove.

In the first place,—A light has been maintained by the Province for several years, and its maintenance has year after year been acquiesced in, and sanctioned by the General Government. As it is not proposed to change the site, but simply to substitute for the present light one of a superior order, it is certainly difficult to understand, how the General Government can now object to that which they have so long sanctioned, or can now declare that to be a contravention of the Constitution Act, which they have hitherto maintained to be strictly within the power of the Provincial Councils, unless indeed they are prepared to contend, that while you have power to erect and maintain a light so imperfect that it is calculated rather to mislead, you have no power to erect and maintain a light of such a description as would render the access to this harbour at all times perfectly safe and easy.

2ndly. The Select Committee of the House of Representatives, appointed during the first Session of the General Assembly, to enquire into and report upon the subject of Light Houses, reported that in their opinion the Light on Pencarrow Head must be considered a Harbour Light, and should be established and maintained exclusively by this Province.

3rdly. So fully has this report been adopted by the present Ministry, that in October last, they drew up a minute, which was signed by the Colonial Treasurer, and

was then transmitted here for the guidance and information of the Provincial Government: in that minute, referring to Light Houses on Pencarrow Head and at Manukau, they say, that “those being more of local concern—the charge should fall on the Provinces of Wellington and Auckland respectively. The Colony might however, undertake these works under arrangement with the Provinces,” and they add “that it is roughly estimated that the cost of each Light-house would not be less than £10,000.”

4thly. Guided by these instructions I intimated to them in a Despatch dated the 6th February, that “it was in the contemplation of the Provincial Government to take immediate steps for the erection of a Harbor Light on Pencarrow Head,” and begged them to furnish me with the plans and specifications of it prepared by Mr. Roberts, in 1852, by order of Sir George Grey. Instead of raising any objection, or warning me against violating the Constitution Act, they at once forwarded the plans with a request that they might be returned.

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But, in truth, they have themselves refuted and abandoned their own objection—for while they have disallowed the Loan Act, because it contained an appropriation for the Light House, they have not disallowed the Appropriation Act, which makes precisely the same provision. If the latter be not an infringement of the Constitution Act, neither can the former be. If they were justified in disallowing the Loan, then they were equally bound to have disallowed the Appropriation Act.

It is however satisfactory to know that the disallowance is wholly inoperative.

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half of the Governor to an Act authorising the raising of a Loan to any amount they might please, is not and cannot be disputed. If indeed doubts on this point had previously existed in the minds of any, they must have been entirely removed by the circular notice recently issued to Superintendents, directing them *in future*, to reserve all Loan Bills for the Governor's assent; for this notice is a distinct declaration on the part of the General Government that Loan Bills passed prior to its being issued, did not in any way require the Governor's assent or sanction.

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Provincial Government in March. The Act had, as far as raising the £25,000, been carried out and completed nearly a month before his Excellency disallowed it. The disallowance therefore not having any retrospective operation—not rendering invalid or void any Act done under the authority or in pursuance of the Loan Act, prior to the date of such disallowance, is as far as the Loan is concerned a mere nullity, and might just as well not have been issued.

And I am happy to say that it is equally void and inoperative as far as regards the appropriations specified in the Loan Act, for a Light House, and for the Wanganui and Waiohini Bridges; for the same appropriations are contained in the Appropriation Act, which has not been disallowed.

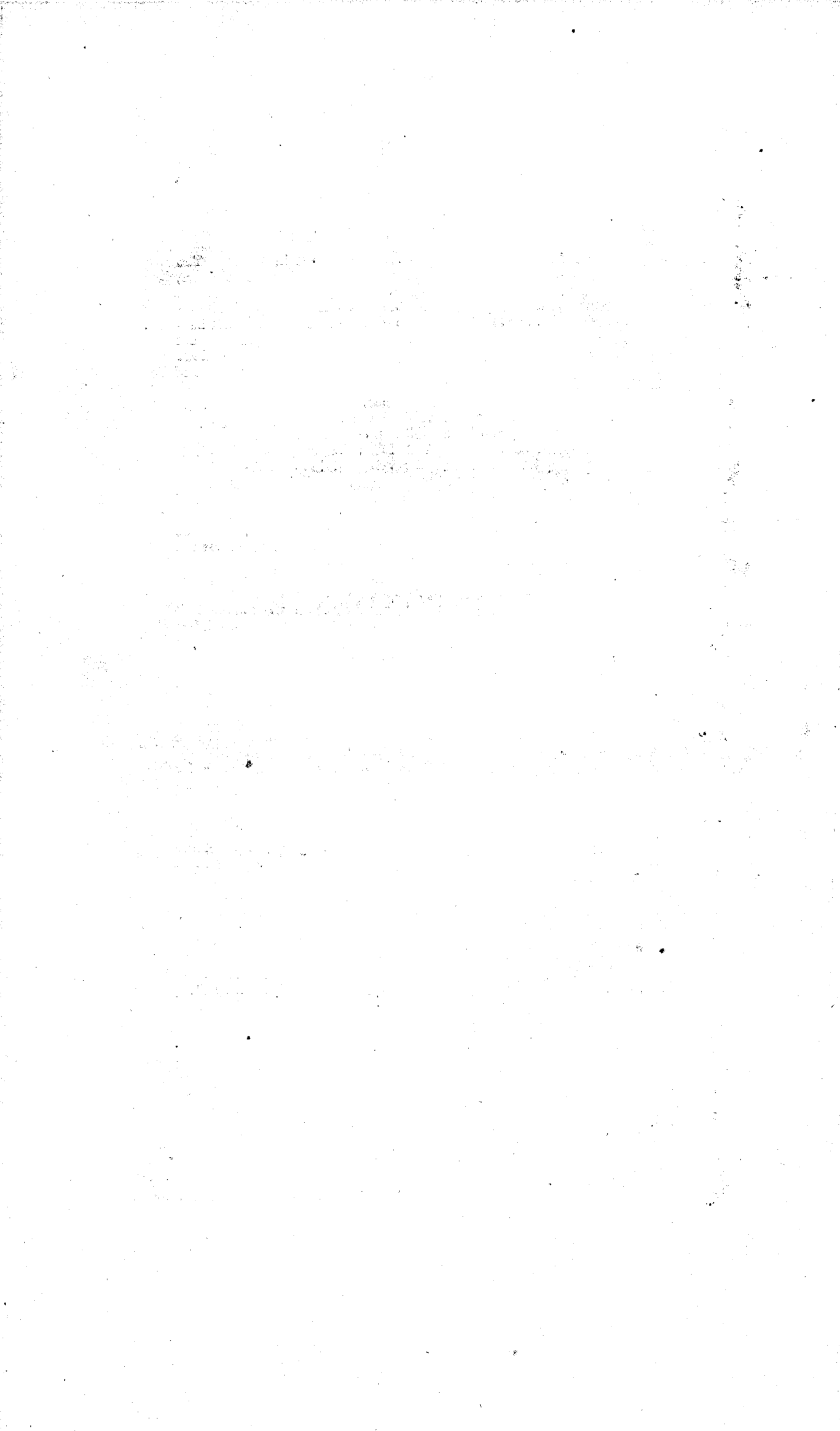
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With regard to the Light House—I may state that it has been ordered—that it will probably be landed here in the course of the next six months, and that no time shall be lost in erecting it.

Permit me, in conclusion, to tender my sincere congratulations that the attempt made to prevent the erection of a great public work, which, with the prospect of Steam Communication being established with England, has become more than ever necessary, and to arrest the progress of the other internal improvements at present being carried on in this Province, has been so entirely defeated.

Wellington Council Chamber,
2nd June, 1857.

J. E. FEATHERSTON,
Superintendent.



Council Paper.



CORRESPONDENCE

RELATIVE TO THE

HARBOUR LIGHTHOUSE.

Superintendent's Office,
Wellington, 5th February, 1857.

SIR,—It being in contemplation of the Provincial Government to take immediate steps for the erection of a Harbour Light House on Pencarrow Head, I have the honor to request that you will have the goodness to furnish me with copies of the plans and specifications and elevation made by Mr. Roberts in 1852, also with copies of any evidence on the subject of the best site for a Light for this Harbour.

I have &c,

(Signed) I. E. FEATHERSTON,
Superintendent.

The Honorable

The Colonial Secretary.

NOTE.—*The following Documents, to Appendix III. inclusive (6th May, 1852), are those asked for in His Honor's letter of 5th February, 1857, and were sent to him by the Colonial Secretary in reply to that Letter.*

Wellington, New Zealand,

15th July, 1853.

SIR,—Having been requested by His Excellency the Governor, to state my reasons for not reducing the height of the proposed Lighthouse on Pencarrow Head, I have the honor to state that the building being required for the purpose of a conspicuous landmark, as well as a Lighthouse, I consider it should not be reduced in height, it being proposed to be only 33 feet to the top of the dome of the Lantern, and a further reason is, that if the Light be placed too

near the surface of the ground, the rays instead of being direct, will be frequently refracted and distorted by the exhalations so constantly occurring from the earth's surface.

I have, &c.,

(Signed) EDWARD ROBERTS.

The Honorable,
The Civil Secretary,
Wellington.

Wellington, New Zealand,
15th June, 1853.

SIR,—In reply to your letter of the 13th instant, requesting to be informed of the difference of expence resulting from there being but one room in the proposed Lighthouse at Pencarrow Head below the Light, instead of two, I have the honor to inform you that the proposed alteration will cause an increase in the expense of £9 18s. 0d., as will be seen by the subjoined estimate, as it will be necessary to substitute a continuation of the lower staircase for the small iron ladder provided for in the estimate; in the deductions shown below, I have not included the girders which carry the middle floor, as it will be necessary to retain them for the purpose of strengthening the building in that its weakest part.

I beg, however, to suggest that this floor be retained, as its principal object is to give strength to the building, the height of which cannot well be reduced, as it is required as much for a conspicuous landmark during the day, as a Lighthouse at night.

I have, &c.,

(Signed) E. ROBERTS.

Deduction from Estimate.

	£	s.	d.
Iron Ladder	4	10	0
2,068lbs. cast iron, at per cwt. 22s.	20	6	0
Total deduction	24	16	0

Required Additions.

Additional Staircase	20	0	0
1,500lbs. cast iron, in additional centre column, per cwt. 22s.	14	14	0
	34	14	0

Abstract.

Addition £34 14 0
Deduction 24 16 0

Additional cost 9 18 0

(Signed) E. ROBERTS.

Wellington,

26th May, 1853.

SIR,—I have the honor to forward herewith, the plans and estimates for a Light House on Pencarrow Head, called for by your letter No. 53-180, dated 11th March, 1853.

Should they meet with the approval of His Excellency the Governor, it will be necessary for me to prepare a plan and specification for the building to be obtained from England more in detail than that now forwarded to you, which I shall be ready to do as soon as I receive your instructions to that effect.

I have, &c.,

(Signed) E. ROBERTS.

Alfred Domett, Esq.,
Civil Secretary.

Report and Estimate of the
Light House Establishment
at Pencarrow Head,
amounting to £2,596 7 8¼

Abstract.

Item.	£	s.	d.
1. Light House	£2,218	14	1¼
2. Light-keeper's House	342	13	6½
3. Privy	10	0	0
4. Well and Pump	25	0	0
	£2,596	7	8¼

E. ROBERTS,

Royal Engineer Department.

26th May, 1853.

REPORT.

This Estimate is for the establishment of a Lighthouse on Pencarrow Head, it having been prepared by order of His Excellency Sir George Grey, contained in the accompanying letter, appendix No. 1.

The establishment is to consist of two separate buildings, as proposed in Mr. Roberts' letter to the Civil Secretary, and approved by the Executive Council. [Appendix, Nos. 2 and 3.]

One building is for the Lighthouse, to contain a store-room, bed-room, and light-room, and is to be built of iron, so as to be fire-proof, and to as great an extent as possible free from injury arising from shocks of earthquakes, and the other for a Light-keeper's house, to be built of the most durable timber procurable in the colony and brick nogged and slated.

Item 1.—Item 1, provides for the Iron Lighthouse: the building as shown by the accompanying drawing, is to be octagonal, on the plan, measuring 14 feet 6 inches internal diameter on the ground floor, and

34 feet high, the height to the Light-room floor is 20 feet 6 inches, and to the Light 25 feet.

The Lower room is intended for a store-room and work-shop, and the upper for a bed-room for the light-keeper, or his assistant, the access from one to the other being by a light iron stair case built round and supported by a hollow cast iron column, which will also serve for a casing for the weights of the revolving apparatus.

From the bed-room, the light-room is reached by means of a light wrought iron ladder.

The building is to be surrounded by a copper dome in two thicknesses constructed so as to leave a space of 4 inches between the two for the purpose of ventilating the light-room and carrying off the smoke arising from the lamp.

The gallery is for the purpose of enabling the light-keeper to clean the outside of the glass of the lantern.

The Building, so as to render it perfectly secure, is to be bolted to an octagonal iron ring, buried 2 feet 8 inches under the ground, and built upon by masonry to add to the bottom weight.

Light.—The Light is required to illumine two-thirds of the horizon (which includes the obtuse angle extending from Baring Head to Somes' Island,) and is to be a revolving white Light of the second order, the lenses are to be composed of a central refracting belt forming a compound lense, and cylindrical prismatic segments placed above and below it in the usual form of Dioptric lights.

To produce the dark and light intervals, it is proposed to cause an opaque disc to revolve between the Lamp and the lenses, by means of a simple clock work apparatus which is to be made to perform a complete revolution in the required time instead of causing the whole of the lenses and frame to move.

The reasons for this peculiarity is to prevent the derangement which would possibly be produced by shocks of earthquakes to so heavy a body as the lenses moving on an axis, as any derangement, however slight, would deteriorate the efficiency of the light.

It is proposed to obtain this building with all its fitments and Light apparatus from England, and to obtain a contract for its erection, and the performance of the other necessary work in the colony.

ESTIMATE.

Bricklayer.

41 yards cubic Excavation	
per yard, 1s. 6d.....	£3 1 6
25 yards cubic Concrete per	
yard, 36s.....	45 0 0
264 feet cubic Brickwork,	
per rod, £30	25 17 7½
	<hr/>
	73 19 1½

Ironmonger.

20 tons 19 cwt. cast Iron,	
per cwt. 22s.	£460 18 0
4 tons 7 cwt. 1 qr. 12 lbs.	
wrought iron, per lb. 3d. 122	6 0
1 circular iron Staircase with	
brass hand-rail	25 0 0
1 iron Ladder 12 feet long...	4 10 0
1 Lantern, glazed complete	
as per plans.....	150 0 0
1 Dioptric Light Apparatus	
of the second order	650 0 0
2 Fresnel Lamps, each	£27 54 0 0
1 Revolving Apparatus.....	10 0 0
31 tons Freight from Eng-	
land, per ton 40s.	62 0 0
31 tons Freight from Wel-	
lington to Pencarrow	
Head, per ton, 50s.....	77 10 0
	<hr/>
	1,616 4 0
Fixing and fitting in the	
Colony.....	300 0 0
	<hr/>
	1,916 4 0
	<hr/>
	2,017 0 1½
	<hr/>
	2,017 0 1½
	<hr/>
	2,218 14 1½

Add 1-10 for Contingencies

APPENDIX.—No. I.

Civil Secretary's Office,
Wellington, 11th March, 1853.

SIR,—I am directed by His Excellency Sir George Grey to transmit to you the accompanying documents relating to the erection of a Light House for the entrance of Port Nicholson:—Letter of Acting Harbour Master, 23rd February, 1853;—Letter of Mr. Dougherty, 19th February, 1853;—Letter of Commander Drury, H. M. S. "Pandora," 20th September, 1852, 6 plans of Lighthouses, 1 chart;—2 Numbers of "Nautical Magazine" for May and March, 1850.

As the testimony in favour of Pencarrow Head, being the most eligible site for the erection of this Light, appears to be so preponderating, His Excellency has directed me to request that you will prepare the plans and necessary estimates, upon the assumption that Pencarrow Head is the site of the future Lighthouse.

I have &c.,

(Signed) ALFRED DOMETT,
Civil Secretary.

Edward Roberts, Esq.,
Wellington.

APPENDIX.—No. II.

Wellington, New Zealand,
23rd April, 1852.

SIR,—With reference to your letter, No. 52-24, informing me that the Government had determined on erecting a Lighthouse on Pencarrow Head, on the Eastern side

of the entrance to the Harbour of Port Nicholson, and requesting me to prepare plans and estimates for the same, I have the honor to inform you that I have examined the site and taken the bearings of the various head lands preparatory to doing so, but before making the detailed plans and specifications for carrying out the works, I beg to submit for your consideration and approval the following suggestions on the proposed undertaking.

Arrangement of the Building, and proposed accommodation.—1st, The establishment should consist of a tower for the light, containing the light-room or lantern, store-room, work-shop and look-out-room; to serve also for a bed-room; the store-room being large enough to contain six months' supply of oil, wicks, spare glass, and other things necessary to make good repairs arising from accidents, or in case of emergency of any kind,—and a detached building for the light-keeper and his assistant, containing the ordinary accommodation required, with the addition of storage-room for provisions and water. Separate buildings are recommended, because it has been found in establishments of this kind, where the dwellings of the light-keepers were in the same building as the light, that the reflector or lenses, as well as the glazing of the lanterns became deteriorated by the dust and smoke arising from the fires used for domestic purposes, and other causes common to dwelling houses.

Construction and Materials.—2ndly, The light tower should be constructed of iron obtained from England, this material is recommended because it is fire-proof, durable, and not likely to sustain injury from shocks of earthquakes; the height of the tower is proposed to be 25 feet to the floor of the light room, and the light-room itself 10 feet high, properly provided with means for ventilation, carrying off the smoke, and surrounded outside by an iron gallery to facilitate cleaning the glass.

The focus of the light will be about 35 feet above the ground and about 400 feet above the level of the sea, and will be seen from a distance of 18 miles.

3rdly, The light-keeper's house and other buildings, may be built of durable wood and brick nogged, and the roof slated.

By thus separating the buildings and constructing them of different materials considerable expense and time will be saved, while every practical object will be gained.

The Light.—4th, The light is proposed to be a revolving whitelight of the second order, on the dioptric or lenticular principle, or that by which the rays of light from the lamp are

collected by lenses instead of being projected by reflectors.

A revolving light is suggested to distinguish it from the bush fires, so numerous on the coast; and a white light because it can be seen from a greater distance than a colored one, and there is no necessity for the sake of distinguishing it from other lighthouses to change the color from white.

The lenticular principle, from its great superiority over the catoptric or reflected light, is now adopted in all the new lighthouses of Europe, America, and the Colonies,—and many of the old lights by reflection are being changed in consequence of the increased power and brilliancy obtained from the lenses; another feature strongly in favor of the latter principle is economy in keeping up the light, there being but one lamp instead of fifty, and therefore much smaller consumption of oil.

I have &c., &c.,

(Signed) EDWARD ROBERTS,

Royal Engineer Department.

Alfred Domett,

Civil Secretary.

APPENDIX—No. III.

Colonial Secretary's Office,

Wellington, 6th May, 1852.

SIR,—Your report on the Pencarrow Head Lighthouse having been laid before the Executive Council by the Governor-in-Chief, I am directed to inform you that the suggestions, it contains have been approved of, and to request you at once to prepare the necessary plans and specifications of the intended work.

I have &c., &c.,

(Signed) ALFRED DOMETT,

Colonial Secretary.

The Clerk of Works.

Colonial Secretary's Office,

Auckland, 2nd December, 1856.

SIR,—I transmit herewith to your Honor copies of the documents noted in the margin, [1, copy minute of October 6th, 1856; 2, extract from an Act to facilitate the erection &c., of Lighthouses; 3, copy letter of Sir William Molesworth to Governor Browne, and of enclosure; 4, Report of the Beacon and Lighthouse Committee appointed by H. R., New Zealand, 16th June, 1854; 5, extract from a memorandum to accompany a circular from the Colonial Office to the Governors of Colonies, on the subject of Lighthouses.] relative to the erection and maintenance of Colonial Lighthouses.

As the subject is of great importance to this Country, I have to request that your Honor would favor His Excellency's Government with the views of the Provincial Government in this matter, so far as the Province of Wellington is concerned, and will supply such information as will enable legislative action to be taken regarding it in the next Session of the General Assembly.

I have &c.,

(Signed) E. W. STAFFORD.

His Honor
The Superintendent,
Wellington.

MINUTE.

With reference to the letter of Secretary Sir William Molesworth of the 6th September, 1855, received on the 2nd January, 1856, and its enclosures on the subject of Colonial Lights, it is of importance that no time should be lost in the Colony availing itself of the opportunity presented to it.

In the Session of the General Assembly, 1854, a committee of the House of Representatives was appointed to examine and report on the subject of Beacons and Light-houses, a copy of that report is transmitted herewith for the information of the Home Government.

The Lighthouse in Cook's Straits or Stephens' Islands is of great importance not merely to the Colony, but to ships generally navigating these seas. For the purpose of constructing such Lighthouse the Colony would require the aid of funds to be borrowed under the 7th Section of the 18th and 19th Vict. It will be desirable to ascertain from the Home Government whether there will be any difficulty in obtaining a Loan under that Act, upon what terms, and what will be required in order to obtain the requisite advance and generally for taking advantage of the provisions of the Act. It is understood that the cost of construction will be at the charge of the colony, but this is not clear from the Act. The report of the committee suggests two other Lighthouses which are of importance, viz., at Pencarrow Head and Manakau, but those being more of local concern, the charge should fall on the Provinces of Wellington and Auckland respectively. The colony might however undertake these works under arrangement with the Provinces. It is roughly estimated that the cost of each Lighthouse would be not less than £10,000 and the cost of maintaining each not less than £2,000 a year, but these estimates are made from imperfect data. It will be the business of the Government to obtain the fullest information in its power previous to the next meeting of the General

Assembly. Meantime it would be desirable to obtain answers to the enquiries here suggested as to the nature and extent of the aid that can be obtained from the Imperial Government.

(Signed) HENRY SEWELL.

October, 6th 1856.

(Circular.)

Downing Street,

6th September, 1855.

SIR,—I have to communicate to you for your information as to the views of Her Majesty's Government, and in order that you may bring them, whenever occasion shall require, under the consideration of your Executive Council, the following observations and proposal on the subject of Colonial Lights.

2. The great importance of a well ordered system of Colonial Lights to the trade and shipping of the British Empire has suggested to Her Majesty's Government the propriety of inviting the co-operation and assistance of the Local Authorities in the Colonies, in order to bring about a more efficient and more economical system of management in the erection and maintenance of Colonial Lights, than that which at present exists.

3. Since the passing of the "Shipping Law Amendment Act" in 1853, the control of the Lights of the United Kingdom has been vested in the Lords of the Committee of Privy Council for Trade.

4. It is proposed to apply the information and experience which the Board of Trade has acquired under that arrangement, in assisting the Colonial Governments to effect such improvements in the management of their Lights as may be found desirable.

5. The accompanying printed memorandum, which has been prepared by the Board of Trade, with the assistance of the Elder Brethren of the Trinity House, fully explains the nature and extent of the assistance and information which that Department is prepared to afford to the Colonial Authorities, as well as the steps to be taken by those authorities for obtaining such assistance and information.

6. In addition to the assistance which the Board of Trade are prepared to give as above mentioned, the "Merchant Shipping Act Amendment Act," 18 and 19 Vict., cap. 91, recently passed, a copy of which I enclose, contains a provision for enabling Her Majesty, by Order in Council, to fix dues to be paid for Colonial Lights. The nature and objects of this provision you will find fully explained in a letter from the Board of Trade to this Department, dated 15th

August, of which a copy is also herewith enclosed.

I have the honor to be, Sir,

Yours, &c. &c.,

(Signed) WILLIAM MOLESWORTH.

ANNO DECIMO OCTAVO AND DECIMO NONO
VICTORIA REGINA.

CAP. XCI.

Extract from An Act to facilitate the erection and maintenance of Colonial Lighthouses and otherwise to amend the Merchant Shipping Act, 1854.—14th August, 1855.

WHEREAS it is expedient to make provision for facilitating the erection and maintenance of Lighthouses in the British possessions abroad, and otherwise to amend the Merchant Shipping Act, 1854. BE it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the authority of the same as follows:—

Short Title of Act, 17 and 18 Victoria, cap. 104.—I. This Act may be cited as, "The Merchant Shipping Act Amendment Act, 1855," and shall be taken to be part of the Merchant Shipping Act, 1854, and shall be construed accordingly.

Colonial Lighthouses—Her Majesty may by order in Council fix Dues for Colonial Lighthouses.—II. In any case in which any Lighthouse, Buoy, or Beacon has been or is hereafter erected, or placed, on or near the Coasts of any British possession, by or with the consent of the legislative authority of such possession, Her Majesty may by order in Council, fix such dues in respect thereof, to be paid by the owner or master of every ship which passes the same, or derives benefit therefrom as Her Majesty may deem reasonable, and may in like manner from time to time increase, diminish, or repeal such dues, and from the time specified in such order for the commencement of the dues thereby fixed, increased, or diminished the same shall be leviable throughout her Majesty's dominions, in manner hereinafter mentioned.

No such Dues to be levied in any Colony without the consent of the Colonial Legislature.—III. No such dues as aforesaid shall be levied in any Colony, unless and until the Legislative Authority in such Colony has, either by address to the Crown, or by an Act or Ordinance duly passed, signified its opinion that the same ought to be levied in such Colony.

Mode of collecting the said Dues.—17 and 18 Victoria, cap. 104, s.s. 399, 400, 401, —IV. The said dues shall in the United

Kingdom be collected by the same persons by whom, and by the same means, in the same manner, and subject to the same conditions, so far as circumstances permit by in and subject to which the Light dues leviable under the Merchant Shipping Act, 1854, are collected and shall in each British Possession abroad, be collected by such persons as the Governor of such possession abroad may appoint for the purpose, and shall be collected by the same means, in the same manner, and subject to the same conditions, so far as circumstances permit, by, in, and subject to which the Light dues leviable under the Merchant Shipping Act, 1854, are paid and collected, or by such other means, in such other manner, and subject to such other conditions as the Legislative Authority in such possession may direct.

Dues to be paid to Her Majesty's Paymaster-General.—V. All dues levied under this Act shall be paid over to Her Majesty's Paymaster-General, at such times and in such manner as the Board of Trade may direct, and shall be applied, paid, and dealt with by him, for the purposes hereinafter mentioned, in such manner as such Board may direct.

Dues to be applied to expenses of Lighthouse &c. for which they are levied.—VI. The Dues levied under the authority of this Act, in respect of any such Lighthouse, Buoy, or Beacon, as aforesaid, shall, after deducting any expenses incurred in collecting the same, be applied for the purpose of paying the expenses incurred in erecting and maintaining such Lighthouses, Buoy, or Beacon, and for no other purpose whatever.

Power to borrow money on Security of Dues, 17 and 18 Vict., cap. 104, s.s. 424, 425, 426.—VII. For the purpose of constructing or repairing any such Lighthouse, Buoy, or Beacon as aforesaid, the Board of Trade may raise upon the security of the Dues to be levied in respect thereof, such sums of money as they may deem fit, and the Commissioners for Her Majesty's Treasury, out of any monies which may be provided by Parliament, the Public Works Loan Commissioners, or any other person body of persons, may advance the same accordingly, such advances to be made in the same manner, with the same powers, and subject to the same provisions, so far as circumstances permit, in, with, and subject to which, under the Merchant Shipping Act, 1854, advances may be made upon the security of the Mercantile Marine Fund, for the construction and repair of Lighthouses in the United Kingdom.

Accounts for each Lighthouse, &c., to be kept, and laid before Parliament, to be audited, 17 and 18 Vict., cap. 104, s. 428.—VIII. Account shall be kept of all sums expended

in the construction, repair, or maintenance of every Lighthouse, Buoy, or Beacon, in the British Possessions abroad, for which dues are levied under the authority of this Act, and of the dues received in respect thereof, in such manner as the Board of Trade may direct, and shall be laid before Parliament annually, and the said accounts shall be audited in such manner as Her Majesty may by order in Council direct.

MEMORANDUM.

To accompany a Circular from the Colonial Office, to the Governors of Colonies, on the subject of Lighthouses required in the Colonies.

When the authorities in a colony are desirous of applying to the mother country for assistance in the construction of any Lighthouse, or Light Vessel, application should be made to the Colonial Office, and a copy of the printed form annexed, marked A, should be carefully filled up with complete answers to all the questions and sent with the application.

The Colonial Authorities should at the same time name some person in London as agent, who is to be the party responsible for all payments, and who will for that purpose give such orders and make such contracts as may be necessary, and who will in so doing be guided by the advice and direction of the Board of Trade. The Board of Trade will confine themselves strictly to the function of giving such advice and direction as may be necessary for procuring the proper execution of the works required by the Colonial Authorities, but they will not open any account or make themselves responsible for any payments whatever.

In giving instructions to the Agent it must be understood by the Colonial Authorities, that as it will be necessary for the Board of Trade to employ an engineer and other professional men, their expenses are to be included with those of the works, and paid by the Agent accordingly.

If it is the desire of the Colonial Authorities that the materials should be shipped or forwarded by any particular vessel, special directions are to be given to the Agent, who should also be directed to effect the necessary insurances, should they be determined upon.

As considerable care in the management of the Lighthouses and Light Vessels, and in the economy of the oil, and wicks, the cleanliness of the reflectors, burners, glasses, &c., is requisite, the directions which the Trinity House have issued for the guidance of their own Light-keepers are herewith annexed, that Colonial Authorities may have the advantage of their long experience, and

adopt them in the management of the Colonial Lighthouses if they should think fit, and as the Colonial Authorities may have occasion to construct Light Vessels, there are annexed to this Memorandum, the dimensions of the Light Vessels used in this country, and all other particulars necessary for the building of such vessels, and for tendering for contracts to build them, and for their equipment and maintenance.

Should it be necessary to apply to England for the Lanterns and Lighting apparatus, the dimensions given in the annexed paper, will be strictly adhered to, so that the construction and fitting up of the vessel, may all go forward in the colony, and the vessel be ready to receive the Lanterns by the time they arrive.

FORM A.

Particulars to be sent from the Colonies, when assistance is required in the construction of a Lighthouse.

QUESTIONS.

ANSWERS.

1. State the Geographical position of the Light required.

2. Describe the nature of the foundation on which the Tower is to be erected—send a specimen if of rock, and if of sand, or marshy ground, a sketch of the borings.

3. The elevation of the site above high water mark. If possible send a ground plan and elevation of the site of the Tower, a contour plan is the best if it can be procured.

4. Are there materials on the spot, or in the colony, from which the Tower and buildings may be constructed? what are they, and how far from the site? at what price per ton could they be conveyed there, or should all the materials be sent from England? are there facilities for landing stores and other materials near the site?

Form A. (continued.)

- | QUESTIONS. | ANSWERS. |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 5. If labourers are to be had in the Colony—state the daily wages of masons, bricklayers, carpenters, smiths, and day labourers. | |
| 6. Can fresh water be had at the proposed site of the Lighthouse, or how far it will require to be conveyed if it be found at a distance? | |
| 7. Will any engineer or workman be required to be sent from England to erect the buildings, to fix the Lantern and apparatus? | |
| 8. State the purpose for which the Light is wanted, whether for a harbour or sea Light, and the distance for which the Light should be visible, and the area over which the Light is required to be exhibited. | |
| 9. Is there any light within fifty miles of either side of the proposed light, and what is its character, fixed, revolving, bright or colored, or other characteristic? | |
| 10. Is there any contiguous hill over which the Light will be required to be seen, and if so, state its height, above that of the site of the proposed Tower and its distance off it? | |
| 11. What oil is intended to be used, and from what source will the supply be derived.* | |
| 12. What provisions with regard to wicks | |

* It is of importance that the oil or other material proposed to be used in the lamps should be of that description which can with certainty be procured at all times in the locality; this point is one which should be considered and determined in the first instance, as the description of lamp and other apparatus to be used in the lighthouse must necessarily depend upon the nature of the material from which the light is to be obtained.

- | QUESTIONS. | ANSWERS. |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | for the burners should be made for the present and future use? |
| | 13. Will any trained Light keepers be required? |
| | 14. Is there any particular vessel or conveyance by which the colony wish these materials should be sent out? |
| | 15. State the name and address of the Agent in London who is to be responsible for the payments, and all expences incurred in carrying out the application from the colony. |
| | 16. State any other particulars that may seem to be necessary. |
| | 17. If a Light Vessel be required, say in what water she will ride, and answer the before-going questions so far as they can be applicable to a Light Vessel. |

Office of Committee of
Privy Council for Trade,
Whitehall, 15th August, 1855.

SIR,—With reference to your letter of the 6th instant, I am directed by the Lords of the Committee of Privy Council for Trade, to transmit to you for distribution to the various colonies, the accompanying copies of the printed Memorandum, relating to Lighthouses and Light Vessels in the colonies.

My Lords have not before replied to the above mentioned letter, as it appeared to them that it would be desirable, in transmitting the Memorandum in question to the Colonial Authorities, to call the attention of the Governors and other officers to those provisions of the "Merchant Shipping Act Amendment Act, 1855," which relate to the collection of dues for the maintenance and erection of Colonial Lights.

If Secretary Sir William Molesworth should think such a course expedient, the following are points which will, in my Lords opinion, require special attention.

1. That the object contemplated by the Imperial Legislature is to assist the colonies in erecting and maintaining light houses, by providing funds for the purpose, by means of

tolls levied on the ships which derive benefit from the Lights, whether those ships go to ports in the colony in which the light is situated or not.

2. That the principle upon which the tolls are to be fixed and collected is the same as that adopted in this country.

3. That provision is made for procuring advances for building, as well as an annual income for maintaining lights.

4. That whilst no colony can be required to levy a tax against its will, the money when paid must of necessity (being levied in different colonies as well as in the United Kingdom), be under the control of the Imperial Government.

5. That it is not the wish, or the intention of the Board of Trade, in administering any funds so levied, to interfere with the local authorities, who will still have the management of the lights, except so far as may be necessary to insure proper accounts, and a proper expenditure of the public money.

6. That whenever any application is made for assistance towards erecting or maintaining a light, the Governor of the colony or possession, should send all the information in his power, as to the number and tonnage of vessels passing or deriving benefit from the light, and the ports or places to or from which they trade. In giving this information attention should be paid to the particular circumstances of the case, so that the Imperial Government may be enabled, in fixing the toll to determine what the amount should be, and at what ports it will be desirable to collect it. As a general rule it will probably be found most convenient to collect the dues at the port of departure of the ship, rather than at the port of arrival, where both ports are British ports, but the application of this rule must depend upon the circumstances of each case.

7. Where a light is to be erected or maintained in one colony, and tolls will have to be taken in other colonies, the communications from the first colony should be so made as to enable Her Majesty's Government to communicate as early and as effectually as possible with the latter colonies.

I have, &c.,

(Signed) T. H. FARRER.

Chamber of Commerce,
Wellington, 18th February, 1857.

SIR,—I have the honor to forward to your Honor the copy of a Resolution which

was passed by this Chamber at its meeting on the 16th instant.

I have the honor to be
&c., &c.,
(Signed) James Kelham.
Chairman.

His Honor
The Superintendent
Wellington

Copy of Resolution referred to in foregoing letter.

RESOLVED.—That this Chamber referring to a Deputation which had the honor of waiting upon His Honor the Superintendent upon the subject of 'erecting a Lighthouse, beg to express their satisfaction at the prompt manner in which His Honor has responded to their wishes by bringing the subject before the local legislature, and obtaining from them a vote for a considerable sum of money for that especial purpose.

(True Copy)
(Signed) S. E. GRIMSTONE.
Secretary.

Superintendent's Office,
Wellington, March 26th, 1857.

SIR,—The Provincial Government having decided upon erecting a Lighthouse on Pencarrow Head, I am desirous of availing myself of the joint services of yourself and Mr. James Smith, to obtain and send out the Building, with all its fitments, Light Apparatus, &c.

I transmit herewith the Plans, Specifications, and Estimates prepared by yourself in 1852, which were approved by Sir George Grey, and are now adopted by the Government of this Province.

It is desired that the suggestions contained in your letter of the 23rd April, 1852, (copy of which is enclosed), should be adhered to as closely as possible.

As I apprehend that there might be some difficulty in finding parties here competent to erect the building and to fix the apparatus, I am of opinion that it would be better that the party whose tender you accept should undertake the erection of the building, and the performance of all other necessary matters to place the Lighthouse in good working order.

Should the party sent out by the contractor have been a light house keeper, and otherwise eligible, the Provincial Government would be prepared to place him in charge of the Light, at a salary of not less than £150 per annum.

It will be necessary that all machinery and apparatus liable to wear and tear, or breakage should be sent out in Duplicate.

Your Estimate of the total cost of the Lighthouse was £2,218 14s. 1½d.; though I hope this will not be exceeded, yet in order to avoid unnecessary delay, I am prepared to sanction an expenditure not exceeding (£3,500) three thousand five hundred pounds, such sum to include every possible expence connected with the Lighthouse (cost in England, freight, and erection on Pencarrow Head.)

You will, of course, call for tenders to erect and make complete the Lighthouse on that site. Should no tender under £3,500, you will communicate with me and wait for my further instructions before accepting a tender.

With respect to payment, the Government will either pay the whole amount when the contract is completed in cash here, or by bills at par on the Union Bank of Australia, or Messrs. Gladstone & Co., London, or if the contractor desires it, he may on his handing to you the bill of lading, and policy of insurance, covering risk to Pencarrow Head, draw upon the Provincial Treasurer of this Province, for any sum not exceeding one-third of the amount of his contract, provided always that the contract so far has been performed to your satisfaction and that a certificate to that effect accompanies the drafts.

Begging that you will lose no time in placing yourself in communication with Mr. Smith, who will be found at Messrs. J. Gladstone & Co., 3 White Lion Court, Cornhill, and to whom I have addressed a similar letter.

I have, &c.,

(Signed) I. E. FEATHERSTON,
Superintendent.

Edward Roberts, Esq.,
11, James-street,
Westminster.

P.S.—The Plans and Estimates will be found addressed to you and Mr. Smith at Gladstone's.

(A similar letter to the above, addressed at same time to Mr. James Smith, London.)

Colonial Secretary's Office,
Auckland, April 11th, 1857.

SIR,—In acknowledging the receipt of an Act passed by the local Legislature of the Province of Wellington, entitled "An Act to authorize the raising of a further sum of (£25,000) Twenty-five thousand pounds." I have to point out, that the Loan intended to be raised under this Act is for the express purpose, amongst others, of con-

structing a Lighthouse, while the 19th Section of the Constitution Act prohibits any Provincial Legislature from making any law for the erection or maintenance of Lighthouses. His Excellency's Ministers had therefore to advise the Governor to disallow this Act, and His Excellency has been pleased to disallow it accordingly.

With reference however to the erection of a Lighthouse for the Port of Wellington. I have to assure your Honor that the Government will at all times most willingly act in concert with the Provincial authorities of Wellington for this object where not prevented by legal obstructions.

Possibly it might in this matter be advisable to act in accordance with the mode specified in the enclosures accompanying my Despatch, No. 498. of 2nd December last.

I have, &c.,

(Signed) E. W. STAFFORD.

His Honor
The Superintendent
Wellington

Superintendent's Office,
Wellington, 14th May, 1857.

SIR,—Having been induced mainly in consequence of the representations addressed to me by the Chamber of Commerce, to take steps for the immediate erection of a Lighthouse on Pencarrow Head, I think it only right to inform you that the Bill authorizing me to raise an additional Loan of £25,000, part of which sum was appropriated to the proposed Lighthouse, has been disallowed by the Governor on the ground stated in the Despatch, of which I beg to enclose you a copy.

I have, &c., &c.,

(Signed) I. E. FEATHERSTON,
Superintendent.

James Kelham, Esq.,
Chairman,
Chamber of Commerce.

Chamber of Commerce,
Wellington, 19th May, 1857.

SIR,—I have the honor to acknowledge the receipt of your Honor's letter of the 14th instant intimating that the Loan Bill which contained a special provision for the erection of a Lighthouse on Pencarrow Head had in consequence been disallowed by the Governor.

In reply I beg to transmit for your Honor's information a copy of the Minute and Resolution of this Chamber in reference to the subject.

I have the honor to be

Sir,

Your Honor's most obedient servant

(Signed) JAMES KELHAM.

Chairman.

His Honor,
The Superintendent,
Wellington.

MINUTE, 18TH MAY, 1857.

Having taken into consideration the letter of His Honor, the Superintendent of this day, No. 165-57, notifying that the Loan Act of this Province for raising the sum of £25,000, had been disallowed by the Governor on the ground that part of it has been appropriated for the purpose of re-erecting the Lighthouse on Pencarrow Head.

RESOLVED,—“That this Chamber has learnt with deep regret the disallowance of this Act, and does not consider the reasons set forth in the letter of the Colonial Secretary are of sufficient importance for stopping a work so necessary for the safety of vessels entering this harbour.

“That as a Lighthouse upon the spot has been erected and maintained at the expense and under the sole supervision of the Provincial Government for several years, that it was sanctioned by Governor Grey, and that its continuance was strongly re-

commended in a report of a Committee of the General Assembly, dated the 31st July, 1854: further, that as it is now only proposed to substitute a superior building in lieu of the old one, that it is only a harbour light, and not intended to be included, any more than the light at Nelson, in that part of legislation, excepted from Provincial control, contained in the Constitution Act, under the of head “The erection and maintenance of beacons and lighthouses on the coast,” and that as the light in question was in existence under authority of Governor Grey before the Constitution Act was passed, this Chamber considers that the Superintendent of this Province, in setting apart Provincial funds for its erection and support has not exceeded his legitimate authority.

“Considering further that the abandonment of this light so long established and so well known to vessels entering the harbor would be fraught with the greatest danger to navigation and probably bring about another melancholy catastrophe similar to that which attended the unfortunate “Maria,” this Chamber would earnestly recommend that His Honor will be pleased to adopt all such constitutional measures as may be in his power for carrying out the proposed object.

Carried unanimously.

(Signed) JAMES KELHAM,

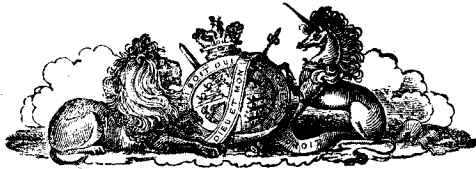
Chairman.

A true copy

(Signed) JAMES KELHAM,

Chairman.

Council Paper.



CORRESPONDENCE

RELATIVE TO THE

COMPLAINTS OF THE PASSENGERS

OF THE

“ANN WILSON,”

AND PROCEEDINGS CONNECTED THEREWITH.

Superintendent's Office,
Wellington, March 30th, 1857.

SIR,—I have to request that you will, without delay, hold an Inquest on the body of Jonathan Deverell, who died yesterday on board the barque “Ann Wilson.”

I have &c.,

(Signed) I. E. FEATHERSTON,
Superintendent.

The Coroner,
Wellington.

Superintendent's Office,
Wellington, 30th March, 1857.

SIR,—Great complaints having been preferred to me by the Immigrants on board the “Ann Wilson,” I have the honor to request that you, as Emigration Officer, will be pleased to institute an enquiry with the view of ascertaining how far these complaints are well founded, and whether the provisions of the Passengers' Act have been carried out. I would particularly direct your attention to the height between Decks, Section xx.,—to the height and size of the berths, Section xxi.,—to the space upon the Passengers' Deck, Section xxiv.,—to the quantity of water put on Board, Section xxxi.,—to the quantity of Provisions, Sec-

tion xxxv.,—to the provision made for ventilation, Section xxvi.,—to the supply of medicines and medical comforts; and to the general treatment of the Immigrants.

Trusting that you will allow me to have your report with as little delay as possible.

I have &c.,

(Signed) I. E. FEATHERSTON,
Superintendent.

Charles Sharp Esq.
Emigration Officer.

Wellington,
31st March, 1857.

SIR,—I beg to acknowledge the receipt of your Honor's letter of yesterday's date, stating that grave complaints have been preferred by the Immigrants on board the “Ann Wilson,” and requesting me as Immigration officer, to institute an enquiry with the view of ascertaining how far these complaints are well founded.

In reply, I have the honor to acquaint you, that I am at present employed making the necessary measurements and enquiries, with the intention of laying an Information against the master of the vessel for a breach of the Passengers' Act of 1855.

As the case will be fully investigated before a bench of Magistrates, it would perhaps be wrong in me (having to prosecute) offering an opinion on the subject, but I shall be happy to furnish your Honor with a full report when the case is adjudicated.

I have, &c., &c.,
(Signed) CHARLES SHARP,
Emigration Officer.

To His Honor
The Superintendent.
&c., &c.,
Wellington.

Superintendent's Office,
Wellington, 30th March, 1857.

GENTLEMEN,—Messrs. Gladstone and Co. having sent out the Immigrants by the "Ann Wilson" without any authority from the Provincial Government, and grave complaints having been addressed to me by the Immigrants themselves in regard to the accommodation afforded them, the treatment they have experienced during the voyage, and especially in regard to the violation of the most important provisions of the "Passengers' Act." I have the honor to intimate to you that I am not prepared to accept these Immigrants as having been introduced on account of the Provincial Government, and further, that the Provincial Government must not in any way be held responsible for the payment of their passage money.

I accordingly transmit herewith the Promissory Notes given by the Emigrants.

I have further to intimate that I have requested the Emigration Officer (Captain Sharp) to make a survey of the "Ann Wilson," and to enquire into, and report upon, the complaints preferred by the Emigrants.

I have also instructed the Coroner to hold an Inquest upon the body of the man who died on board yesterday.

I have, &c.,
(Signed) I. E. FEATHERSTON,
Superintendent.
Messrs. Hervey, Smith & Co.

Lambton Quay,
Wellington, 31st March, 1857.

SIR,—Referring to the letter of your Honor of yesterday's date addressed to Messrs. Hervey, Smith & Co., relating to the passage money of the Emigrants brought out to this Settlement by the "Ann Wilson," I have been requested to advise them and respectfully beg leave to address your Honor.

Two distinct and independent grounds are stated by your Honor for refusing to

receive these Immigrants on behalf of the Province, and throwing the responsibility of collecting their passage monies and dealing with them on Messrs. Hervey, Smith & Co.

With reference to the first, that no authority has been given for the sending out of these Emigrants, your Honor will recollect that they have been sent out at the suggestion and with the sanction of Mr. James Smith, who was specially accredited by your Honor's Government to act as Financial and Emigration Agent for this Province in England, and that already a portion of the five hundred additional Emigrants, beyond those stated to have been formally authorized, have been received by the Provincial Government.

By an official communication addressed to Messrs. Hervey, Smith & Co., relative to the suspected abduction by Captain Jobson in the "Indian Queen," of some of the Emigrants by the "Oliver Lang" and "Indian Queen," it was threatened that, if any such abduction occurred, the Provincial Government would refuse to receive the Emigrants to arrive by the "Ann Wilson" and "Montmorency," clearly implying an understanding, and by an understanding a promise, on the part of the Government, that otherwise these Emigrants would be received and paid for in the same way as were those extra by the "Indian Queen."

And your Honor's letter of yesterday seems to imply as much, in as far as a supposed breach of contract is referred to as the real foundation of the refusal.

Messrs. Hervey, Smith & Co. are unable to shew me any copies of Provincial Government or personal communications bearing on this matter addressed from hence to Mr. James Smith, since receipt of notice of the intention to send out the additional Emigrants.

Your Honor will at once perceive the difficulty under which they labour, and the obligation imposed upon them to abstain from concluding their principals by any admission of the right of the Provincial Government to rescind an implied contract.

The refusal on this first ground affects Messrs. John Gladstone & Co. only, the refusal on any other may affect Messrs. James Baines & Co., or the owners of the "Ann Wilson." I have been instructed, for the purpose of placing the burden upon the shoulders, if any, which ought to bear it, to solicit your Honor to withdraw the first ground of objection stated in your letter.

With respect to the second ground, more particularly affecting the interests of Messrs. James Baines & Co., I would respectfully submit that, pending the enquiries which

are on foot, your Honor would not willingly prejudice their results by so serious a step as is intimated in your letter.

Should the Provincial Government fail to recover the amount of these notes by reason of defences arising out of breaches of contract, it will be entitled to recover the amount of loss from Messrs. John Gladstone & Co., who will then have recourse upon Messrs. James Baines & Co.

In the mean time, I submit that the Provincial Government should hold these Promissory Notes, unindorsed, they are valueless to any one else.

After the first excitement of the enquiry has subsided, your Honor will be better able to deal with the matter in the spirit of justice, and possibly an arrangement may be effected which will relieve the Agents of Messrs. John Gladstone & Co., and of Messrs. James Baines & Co., from a very onerous position arising out of circumstances for which they are personally in no way responsible.

I have the honor to be,
&c., &c.,
(Signed) ROBERT HART.

To His Honor
The Superintendent.

Superintendent's Office.
Wellington, April 1st, 1857.

SIR,—I have the honor to acknowledge the receipt of the letter which you yesterday addressed to me in your capacity of legal adviser of Messrs. Hervey, Smith & Co.

With reference to that portion of your communication in which you argued that there exists a contract implied or otherwise between Messrs. Gladstone & Co. and myself, for the Immigrants already introduced in the "Ann Wilson," and those expected in the "Montmorency," it appears to me sufficient to state that, Messrs. Gladstone & Co. have themselves admitted that no such contract or understanding in regard to the Immigration above referred to, exists between them and the Provincial Government. They have acknowledged that in sending Immigrants in excess of 500 adults, and at a cost exceeding £10,000, they were aware that they were acting in contravention, not only of my instructions to Mr. James Smith which had been submitted to them, but also of the Loan Act, Session I., No. 6, a copy of which had been furnished to them.

Far from the communication I addressed to them and Messrs. Hervey, Smith & Co. relative to the suspected abduction by

Captain Jobson in the "Indian Queen" of some of the Immigrants by the "Oliver Lang" and "Indian Queen," implying an understanding that the Provincial Government would accept the Immigrants by the "Ann Wilson" and "Montmorency" I submit that the intimation I then gave Messrs. Hervey, Smith & Co., that in the event of a single Immigrant being taken away in the "Oliver Lang" or "Indian Queen," I should regard such a breach of good faith as of itself an insuperable bar to my accepting on any terms the Immigrants by the "Ann Wilson" and "Montmorency," shews clearly that I am under no obligation to accept these Immigrants.

I do not therefore feel myself justified in complying with your request that I should withdraw the first ground of objection stated in my letter of the 30th ultimo.

With respect to the position in which Messrs. Baines & Co., or the owners of the "Ann Wilson," may be placed by this refusal, that appears to me a matter entirely for the consideration of the Agents of those parties.

I shall of course be prepared to instruct the Provincial Treasurer to endorse the Promissory Notes given by the Immigrants over to Messrs. Hervey, Smith & Co., but without recourse.

I have &c.
(Signed) I. E. FEATHERSTON.
Superintendent.

Robt. Hart, Esq.,
Solicitor for
Messrs Hervey, Smith & Co.

Wellington,
8th April, 1857.

SIR,—I have the honor to acknowledge the receipt of your letter of the 1st instant, re-stating your Honor's grounds of refusal to receive the Emigrants by the "Ann Wilson," on behalf of the Provincial Government.

In the position of matters thus arising, Messrs. Hervey, Smith & Co. instruct me simply to guard the rights of their principals from being concluded from any action which they, in partial ignorance of facts, may take in the matter. They are not in a position to controvert your Honor's statements, and will therefore act under the control of the circumstances.

I have, &c., &c.,
(Signed) ROBERT HART.

To His Honor
The Superintendent,
Province of Wellington.

Superintendent's Office,
Wellington, April 3rd, 1857.

GENTLEMEN,—I avail myself of a vessel sailing to Melbourne, to inform you that the "Ann Wilson" arrived here on Sunday last, after a voyage of 122 days, in a most deplorable condition.

Of the Immigrants, there had died on the voyage four men and fourteen children, and there were some thirty more landed seriously ill; one man died two hours after the vessel anchored, and another on the 1st instant, and I fear that several more deaths may be expected. Of the six adults, five were married, and four leave children behind them.

Having visited the vessel immediately on her arrival, I was not surprised either at the mortality, or at the bitter complaints of the passengers of the manner in which they had been treated, and the sufferings they had endured.

My surprise was that typhus fever had not broken out, and swept off almost every soul on board, for I can scarcely conceive a vessel worse adapted for bringing out Immigrants; more wretchedly ventilated, or more manifestly over-crowded.

I felt it my duty at once to request the Coroner to hold an inquest on the body of Jonathan Deverell, who died in Harbour, and also to instruct the Emigration Officer to make a survey of the vessel, and report as to how far the provisions of the Passengers' Act had been complied with, or the complaints of the Immigrants were well founded.

The jury, after a long and searching investigation, returned the following verdict:—

"That the deceased, Jonathan Deverell, after an attack of diarrhoea, died from exhaustion accelerated by the following causes: a short supply of water during the voyage—the want of proper medicines and medical comforts—the inadequacy of the cooking accommodation—the bad ventilation of the vessel "Ann Wilson;" and hold the Captain and Charterers culpable for the same."

"The jury further record their opinion that great neglect attaches to the Emigration Officer at the port of Liverpool for not seeing a sufficient supply of water, medicines, medical comforts and sugar, were put on board. They also consider the Captain much to blame for not putting in at the Cape of Good Hope, or other port, for supplies of before-mentioned articles when he knew the vessel was so badly supplied with them.

I have not yet received the report of the Emigration Officer, but I understand that he has, after having completed his examination, laid an Information against

the Captain for a breach of sundry of the provisions of the Passengers' Act. And the Immigrants and Cabin Passengers all purpose bringing actions against him.

You will, therefore, be prepared to learn that I have intimated to your agents, Messrs. Hervey, Smith & Co., that I would not accept these Immigrants as having been introduced on account of the Government, and that I must not be considered as in any way responsible for the payment of their passage money.

I have handed the Promissory Notes given by the Immigrants to Messrs. Hervey, Smith & Co., stating that the Provincial Treasurer would be prepared to endorse them over to them, but without recourse.

As soon as I receive the report of the Emigration Officer, and the investigation before the Magistrates is completed, I shall again address you, but I must say that, as far as the facts of the case have been developed, the conduct of all parties concerned in sending out so large a number of people in such a vessel without making the most ordinary arrangements for ensuring their welfare, appears to me not only deserving the greatest censure, but to render them fully liable to the penalties which can be inflicted by law.

I need not add, that the Provincial Government will never be a party to Immigration conducted on such a system as this.

It is my intention to bring the conduct of the Emigration Officer at Liverpool, in allowing the "Ann Wilson" to sail under the circumstances she did, before the notice of the Home Government.

I have, &c., &c.,
(Signed) I. E. FEATHERSTON,
Superintendent.

Messrs. Gladstone & Co.
3, White Lion Court, Cornhill.

Similar letter as above to Messrs. James Baines & Co.

Wellington,
20th May, 1857.

SIR,—Referring to your letter of the 30th March, on the subject of complaint preferred by the passengers of the "Ann Wilson," against the Master of that vessel for a breach of the "Passengers' Act" of 1855, I beg to inform your Honor that upon my information the cause of complaint has been fully investigated before the Resident Magistrate, and that proof was adduced to the effect, that the deck space and ventilation was sufficient for only 112½ adults, instead of 169½.

That the full allowance of water was not served out during any portion of the voyage, and that the cooking apparatus was so small, as to render it necessary to cook day and

might to supply the requisite food for the passengers.

I should have reported the result of my investigation to your Honor at an early date, but have been waiting to learn the decision, and penalties inflicted for the various breaches of the law, as however, from unavoidable causes, the further hearing of the case is postponed till Friday next, I deem it advisable to report to your Honor without further delay.

I have the honor,

&c., &c.,

(Signed) CHARLES SHARP,
Emigration Officer,

To His Honor

The Superintendent,
Wellington.

Resident Magistrate's Court,

Wellington, 30th April, 1857.

SIR,—I have the honor to forward herewith copies of the depositions* taken before me on the 9th and 13th instant, with reference to a complaint made by the Emigration Officer at this Port, against the individual named in the margin (Isaac Henzell Rutherford) for breaches of the "Passengers' Act, 1855."

The defendant was master of the barque "Ann Wilson," which sailed from Liverpool for Wellington with Emigrants on or about the 29th day of November last, and came to anchor in this harbour on the 29th March last. The Information sets out the several breaches complained of, and the conviction, those upon which the defendant was found guilty. The penalties not having been paid, and the defendant having evaded the warrant issued by me against him, it suggested itself to my mind that proceedings would be instituted forthwith upon the Bond, which, it is presumed has been transmitted to the Colonial Secretary in accordance with the provisions of the Act. With that object therefore, I have transmitted by the steamer "Zingari" to Auckland a copy of the conviction.

The case is a very gross one, and I trust that the party or parties who have indirectly been the cause of the death of about twenty of the passengers of the "Ann Wilson" will be held responsible.

The defendant was to have appeared at this Court on the 25th instant with his sureties to put in bail, pending arrangements to pay the amount of penalties being com-

* The depositions referred to will be found printed at the end of this Correspondence.

pleted, or to render himself in default thereof; but notwithstanding the personal undertaking of his solicitor, Mr. King, he failed so to appear, and up to the present moment no clue as to his whereabouts has been traced by the police.

I have the honor to be,

Sir,

Your most obedient servant,

HENRY ST. HILL, R. M.

His Honor the Superintendent,
Wellington.

Superintendent's Office,

Wellington, 20th May, 1857.*

SIR,—Referring to your letter of the 30th ultimo, I have to request that you will have the goodness to furnish me with a more detailed statement of the circumstances connected with the escape of Captain I. H. Rutherford of the barque "Ann Wilson," who, it appears, was on the 24th ult., convicted at the Resident Magistrate's Court of several breaches of the "Passengers' Act" of 1855, and sentenced to pay penalties to the amount of £1,860.

I gather from your letter, that the defendant was, on the judgment of the Court being pronounced, permitted to leave the Court without having paid the fines, or any security for their payment having been taken; that the precaution usually adopted in such cases were neglected in consequence of Mr. King, the defendant's solicitor, having given his personal undertaking that the defendant should appear before you on the following morning the 25th, "with his sureties to put in bail, pending arrangements to pay the amount of penalties being completed, or to render himself in default thereof,"—and further, that the defendant did not appear at the time appointed; but there is nothing to shew that upon his failing to appear before you on the forenoon of the 25th, any immediate steps were taken by you to secure the apprehension of the defendant; on the contrary, I am informed that two days were allowed to elapse before any action in the matter was taken by you, thus affording ample time for the escape of the defendant.

I also desire to be informed as to the nature of the undertaking given by the

* The delay in answering the previous letter arose from His Honor's absence at the Ahuriri.

defendant's solicitor, and whether any proceedings have been instituted against him for failing to fulfil it.

I have the honor to be,
&c., &c.,

(Signed) I. E. FEATHERSTON.
Superintendent.

Henry St. Hill, Esq.,
Resident Magistrate.

Resident Magistrate's Court,
Wellington, 22nd May, 1857.

SIR,—I have the honor to acknowledge the receipt of your Honor's letter of the 20th instant, requesting to be furnished with a more detailed statement than that communicated in my letter of the 30th ult., which accompanied the depositions in the case against Captain I. H. Rutherford of the barque "Ann Wilson;" and desiring to be informed as to the nature of the undertaking given by the defendant's solicitor for his appearance at this Court on the 25th of last month; and whether any proceedings had been instituted against him for failing to fulfil such undertaking.

I stated in the letter referred to, that Captain Rutherford had been convicted in penalties amounting in all to £1,860 upon breaches of the "Passengers' Act, 1855;" and that the day following the adjudication was allowed him, either to pay those penalties, or to render himself in default thereof.

The judgment of the Court was delivered on the 24th April.

On the following day His Honor, Mr. Justice Stephen, arrived here from Canterbury, and required the attendance of the professional gentlemen who were engaged in the several matters then pending in the Supreme Court forthwith.

I knew that Mr. King, Captain Rutherford's Solicitor, was thus engaged before His Honor in some urgent cases; while I myself was busily engaged in the Resident Magistrate's Court.

I did not for one moment conceive that Mr. King could have neglected having taken such steps as to have effectually prevented his client giving him the slip.

He could have given the Collector of Customs notice that he was personally responsible for Captain Rutherford's appearance at this Court; and to have requested that officer not to have permitted the Mastership of the "Ann Wilson" to have been transferred to any other person without his (Mr. King's) attendance at the Custom House with the then master of that vessel. Had this precaution been taken, Captain Rutherford

must either have rendered himself, or the vessel could not have left the Port.

On the 26th (Sunday) I received a letter from Mr. King enquiring whether Captain Rutherford had appeared at the Resident Magistrate's Court on the previous day.

On the 27th (Monday morning) I issued a Warrant for the apprehension of Captain Rutherford, forwarding one also to Canterbury, Otago, and Nelson, and despatching an officer to Porirua with another. No trace whatever could be discovered of Captain Rutherford's movements.

It was rumoured that he had sailed in the "Kate Kearney" for Canterbury.

My letter with the Warrant, reached Lyttelton in time to have that vessel searched, but without effect, as I have since learnt.

It has been reported that the "Ann Wilson" was boarded by a whale boat off Palliser Bay the day after she sailed hence for Callao. In such case Captain Rutherford must have joined the ship at that period.

Your Honor is aware that the personal undertaking of an attorney given in open Court is at all times accepted as an adequate guarantee.

At the same time that such guarantee was given, Captain Rutherford pledged his faith for his appearance at the Resident Magistrate's Court on the day following the adjudication, namely, the 25th April last.

I was under no apprehension that a breach of faith was contemplated, or that his solicitor could have been so heedless of precaution as the result has proved.

I was aware that he was much occupied in the Supreme Court on the 25th, and I conceived that that engagement explained his non-attendance with Captain Rutherford at the Resident Magistrate's Court on that day.

I do not now believe, that even had my suspicion been aroused, and had I issued a warrant on Saturday afternoon, the 25th, that it would have been successful in the capture of Captain Rutherford.

With respect to the enquiry made by your Honor as to whether any proceedings had been instituted against Captain Rutherford's solicitor for non-fulfilment of the undertaking given by him, I have to remark that I am at a loss as to what steps can be taken under the circumstances.

A solicitor of the Supreme Court, as an officer of that Court, is amenable for his acts before the Court,—but, in the Resident Magistrate's Court I fear it is otherwise, and that the only remedy remaining is to decline in future to accept any guarantee of a similar character.

The utmost extent of imprisonment that could have been inflicted on Captain Rutherford was three months; it is difficult to ascertain what mode of proceeding could be instituted against his solicitor, as his surety, in this instance.

I have &c.,
 (Signed) HENRY ST. HILL, R. M.
 To His Honor
 The Superintendent,

Superintendent's Office,
 Wellington, 27th May, 1857.

SIR,—I have the honor to acknowledge the receipt of your letter of the 22nd instant, in which, as requested by me, you give further details relative to the escape of Captain Rutherford of the "Ann Wilson."

It is unnecessary to recapitulate the facts of the case; but I regret to say that from your own statement a very serious responsibility appears to rest upon you in the matter. You had within your reach the means of preventing the evasion of the penalties inflicted by your own decision. It was open to you to require substantial bail, or to detain the person of the defendant; but instead of pursuing either of those obvious courses, you contented yourself with the mere oral promise of the defendant's attorney (not even a written guarantee), which you now inform me was in your opinion never of any avail except in a Court of Honor.

You endeavour to justify the course adopted by you on the ground that, "the personal undertaking of an attorney given in open Court is at all times accepted as an adequate guarantee," while a little further on you observe that, though a solicitor of the Supreme Court is amenable for his acts before the Court, yet in the Resident Magistrate's Court you fear it is otherwise, and that the only remaining remedy is to decline in future to accept any guarantee of a similar character. In reference to this I would remark (without expressing any concurrence in your opinion, that Mr. King is not liable), that I am not aware of any such invariable rule as you state to exist in relation to the acceptance of an attorney's guarantee; on the contrary, if my recollection of cases which have come under my notice be correct, not only the proffered undertaking of the attorney, but even bail is frequently refused. But at all events, however reasonable it may be to take the personal guarantee of an attorney in cases where he can be held responsible, it seems extraordinary to have accepted it in a case where you believed that he could not. And your neglect to secure the person

of the defendant, or to require bail, is the more remarkable because (though not mentioned by you, I have learnt from another source that) before conviction, you had found it necessary to require Captain Rutherford to give bail to await the adjudication, on the affidavits of parties who swore to his intention of escaping. And yet after this interim bail had expired, with the affidavits referred to filed in your office, and when by the infliction of the penalty of £1,860, the motive to escape had become much stronger than before conviction, you take no better security for his appearance than his attorney's word of mouth. Such a course appears very inconsistent, and certainly not in conformity with the dictates of the most ordinary prudence.

There appears also to have been a further neglect on your part which I think is not satisfactorily accounted for. I allude to the fact of your having taken no steps after Captain Rutherford had failed to appear at your Court on the Saturday morning, till you received from Mr. King on the Sunday afternoon an intimation that Captain Rutherford could not be found. The course which you point out as open to Mr. King after he had given his guarantee, was equally open to yourself. "He," you observe, "could have given the Collector of Customs notice that he was personally responsible for Captain Rutherford's appearance, and to have requested that officer not to have permitted the mastership of the 'Ann Wilson' to be transferred to any other person without his (Mr. King's) attendance at the Custom House. Had this precaution been taken, Captain Rutherford must either have rendered himself, or the vessel could not have left the Port."

You do not appear to observe that the censure which you thus cast (deservedly no doubt) on Mr. King, applies equally to yourself; for you assign no reason why, after accepting so loose a security as Mr. King's guarantee has proved to be, you did not take a step which you have pointed out must have effectually prevented the escape of Captain Rutherford—and which it was as easy for you, as for Mr. King to take.

I regret also to observe that, even after it had occurred, you do not appear to have been impressed with the very serious character of the breach of parole in this case; for I am informed that a few days after Captain Rutherford had absconded, and his attorney had failed to fulfil his guarantee, you permitted the latter to appear in your Court as attorney on behalf of the former, and to take part in another case then pending before you.

After the breach of his guarantee by Mr. King, the least you should have done would, in my opinion, have been to refuse to hear him in any case in which Captain Rutherford was a party,—if indeed you did not refuse to allow him to appear in your Court altogether till he should have taken on himself the responsibility which Captain Rutherford had evaded, in consequence, as you say, of your reliance on Mr. King's guarantee. The course adopted by you was not calculated to impress either Mr. King or the public with a sense of the magnitude of the offence of any party, who either by negligence or otherwise, has been instrumental in aiding the escape of a fugitive from justice.

After a very careful consideration of this case, I have arrived at the conclusion that a legal responsibility for Captain Rutherford's escape must rest somewhere. There are only yourself and Mr. King to share it, and your own opinion is, that Mr. King is not legally responsible.

You are no doubt aware that Justices of Peace have been fined for taking insufficient bail. It appears a *fortiori* that the negligence of taking none in an important case like this, must be greater still. I regret that you have not, in my opinion, removed from yourself the very grave responsibility which attaches to the escape of Captain Rutherford.

I have &c.,
(Signed) I. E. FEATHERSTON,
Superintendent.

Henry St. Hill, Esq., J. P.,
Resident Magistrate.

Resident Magistrate's Court,
Wellington, 1st June, 1857.

SIR,—Your Honor's letter of the 27th ultimo, with reference to my statement of the 22nd, respecting the escape of Captain Rutherford of the "Ann Wilson" reached me at the moment I was about starting for the Wairarapa, to adjudicate on some cases between Natives and Europeans in that place.

Reserving to myself the course to be hereafter pursued by me under all the circumstances of the case referred to, I have now merely to remark that, notwithstanding I conceive your Honor to have misinterpreted the purport of my statement on several points, it is not my intention to combat your Honor's arguments; but simply to observe that, even admitting I had acted without prudence or due precaution, I submit that the head of the Provincial Government while pointing out to a Public Officer who has for so many years discharged so important a trust (if not with zeal and fidelity, certainly

without censure from the Government under which he has served) his error of judgment, in having acted upon a preconceived guarantee of perfect security from a professional gentleman, might, at the same time, have sympathized with that officer under the very serious and legal responsibility which your Honor asserts rests upon him.

I have the honor to be,

Sir,

Your most obedient Servant,
HENRY ST. HILL, R. M.

His Honor the Superintendent,
Wellington.

The following letters were not written when these papers were laid on the Council Table, but it has been thought desirable to append them, as concluding the correspondence to the latest date.

Superintendent's Office,

Wellington, June 6th, 1857.

GENTLEMEN,—Referring to my letter of the 3rd April, relative to the "Ann Wilson," I have now to inform you that the Emigration Officer having laid an Information against Captain Rutherford for several breaches of the "Passengers' Act," before the Resident Magistrate, proved to the satisfaction of the Court that the following breaches had been committed, viz.—1st, that the deck space and ventilation was only adequate for 112 adults instead of 169, the number on board; 2nd, that the proper allowance of water was never served out during the whole voyage; and 3rd, that the galley was so small as to necessitate the employment of cooks night and day.

The Court sentenced Captain Rutherford to pay fines to the amount of £1,860. Captain Rutherford, however, having been permitted by the Resident Magistrate to leave the Court, on the undertaking of his solicitor that he should appear the next morning to satisfy the judgment of the Court, Captain Rutherford made his escape, and it is generally believed that he got on board the "Ann Wilson" in Palliser Bay.

As, however, it is perfectly horrible that such a large number of lives should have been jeopardized by such an overcrowding of the vessel, and that such a flagrant breach of one of the most important provisions of the "Passengers' Act," should have been permitted by the Emigration Officer at Liverpool, it is the intention of the Provincial Government to bring the conduct of that Officer under the notice of the Home Authorities.

I have &c.,

I. E. FEATHERSTON,
Superintendent,
Province of Wellington.

Messrs. Gladstone & Co.

Similar letter to Messrs. James Baines & Co.

INFORMATION.

PROVINCE OF
WELLINGTON, NEW
ZEALAND, TO WIT. }

BE IT REMEMBERED, That CHARLES SHARP of Wellington, Government Emigration Officer at Wellington, in the said Colony, cometh on the First day of April, 1857, before me, Charles Dudley Robert Ward, and one of the Justices of the Peace for the Province of Wellington aforesaid, sitting at Wellington aforesaid, and giveth me to understand that ISAAC HENZELL RUTHERFORD, Master of the barque "Ann Wilson," hath committed breaches of the fourteenth, thirty-fifth, thirty-sixth, forty-third, and forty-fourth Sections of the "Passenger's Act, 1853, in manner following:—

The said barque "Ann Wilson" did carry on her lower passenger deck a greater number of passengers than in the proportion of one statute adult to every twenty-five clear superficial feet thereof, contrary to the said fourteenth Section of the said Act; The said Isaac Henzell Rutherford, master of the said barque "Ann Wilson," did not during the voyage from England to New Zealand issue to each passenger an allowance of water and provisions in accordance with the dietary scale fixed by the said Act, contrary to the said thirty-fifth Section of the said Act: the provisions supplied were not issued daily, and the articles which required cooking were not cooked, contrary to the said thirty-sixth Section of the said Act.

The supply of medicines and medical comforts provided for the passengers by the said barque "Ann Wilson" was neither good in quality nor sufficient in quantity, contrary to the requirements of the said forty-third Section of the said Act.

The said barque "Ann Wilson" did clear out and proceed to sea without due medical inspection being had of the passengers and medicines on board the said barque, contrary to the said forty-fourth Section of the said Act.

(Signed) CHARLES SHARP,
Emigration Officer.

SHIP SUMMONS.

CHARLES SHARP,
Complainant.

ISAAC HENZELL RUTHERFORD,
Defendant.

This is to command you to appear without fail on the ninth day of April, instant, at eleven o'clock in the forenoon, at the Resident Magistrate's Court, at Wellington, before me or other the Magistrates or Justices of the Peace then and there present, to answer the complaint of CHARLES SHARP,

Government Emigration Officer, for breaches of the fourteenth, thirty-fifth, thirty-sixth, forty-third, and forty-fourth clauses of the "Passengers' Act, 1855."

(Signed) C. D. R. WARD, J. P.

Dated this first day of
April, one thousand
eight hundred and
fifty-seven.

To Isaac Henzell Rutherford,
Master of the barque "Ann Wilson."

Resident Magistrate's Court,
Wellington, 9th April, 1857.

SHARP. v. RUTHERFORD.

Breach of "Passengers' Act Amendment, 1855."
Charles Sharp, being sworn, states—I am
Emigration Officer at Wellington.

The barque "Ann Wilson" arrived at
this Port on Sunday, the 29th March last.

On the following day I received a complaint in writing from seventy of the Passengers to the effect that breaches of the Passengers' Act had been committed by Captain Rutherford, the Master of the said barque.

In consequence of that complaint I filed an Information in this Court against the Defendant. I was on board the vessel at the time that I received the complaint. It appeared to me that the vessel was very much crowded with passengers. I therefore made an admeasurement of her capacity in order to ascertain if the provisions of the Passengers' Act had been complied with. I found the height between deck is little over six feet. The length allotted to the passengers was one hundred and eight feet, and the average breadth twenty-six feet. The dimensions were taken liberally and to the advantage of the vessel. The total superficial contents I make two thousand eight hundred and eight feet (2,808). That measurement included the space occupied by the masts, pump, chain-lockers and other fittings, so that the dimension is liberal measurement. I also measured the ventilation between decks. There were five openings including the hatchways.

The after opening was two feet by eighteen inches—the second two feet by four feet—the main hatch six feet and one-tenth by seven feet and two-tenths—the fourth opening was two feet by two feet, and the fore hatch four feet eight-tenths by three feet and nine-tenths—making a total of seventy-eight superficial feet of ventilation.

The measurement makes no allowance for the beams which run across, so that it is a liberal measurement—the ventilation is insufficient for such a vessel and not in accordance with the provisions of the Passengers' Act. The number of passengers on the lower deck at the time that the

"Ann Wilson" sailed from Liverpool in England was two hundred and twenty-two souls (222), equal to one hundred and sixty-nine and a-half (169½) adults.

The deck span allowing twenty-five feet to every statute adult would allow the "Ann Wilson" to carry one hundred and twelve and a half statute adults; but the ventilation being insufficient, the utmost number that vessel ought to have carried would not exceed one hundred and six statute adults. The quantity of ventilation for one hundred and twelve and a half statute adults ought to have been eighty four superficial feet. Independently of the insufficient spaces for ventilation, the main hatchway had an iron tank placed in such a position over it as to impede the ventilation greatly. There was a great deal of sickness during the voyage of the vessel from Liverpool to this Port. The want of ventilation in my opinion must have been the cause of the sickness. I produce the passengers' list of the "Ann Wilson." From that list there appear to have been twenty deaths on board, including one which occurred after the vessel arrived in this harbour.

Five of those deaths were adults.

By Mr. King for Defendant—The passengers list is signed by the Emigration Officer of the Port of Liverpool. His name, as well as I can make out, is "Stewart." No vessel could clear by Law without a Certificate of the Emigration Officer. (Mr King submits that under the 85th Clause of the Passengers' Act 1855, the Resident Magistrates Court has no jurisdiction in this case) upon the ground that the complaint must be made at the place where the offence has been committed.

I consider that there was great neglect of duty on the part of the Emigration Officer to have allowed the vessel to have been cleared.

By the Court—I have witnesses who have been subpoenaed to support those facts of the Information respecting other breaches of the Act than such as I have testified to. There are no side scuttles to assist ventilation in the "Ann Wilson."

(Signed) CHARLES SHARP.

Sworn before me this 9th day of April, 1857.

(Signed) HENRY ST. HILL, R. M.

James Barnes, being sworn, states—I was a passenger in the "Ann Wilson" from Liverpool to Wellington. We sailed from Liverpool on the 29th November last, and we arrived in this Port on the 29th of last month. I was a third class passenger. There were only cabin and steerage passengers in the vessel. Before we sailed we

were placed in messes. The provisions were served out for a week at a time, after we had been three days at sea. We had fresh provisions for the first three days. In the first instance we had two quarts and half a-pint of water served out to us. On the 9th of January the quantity of water was reduced one pint.

That quantity was served out only for one day, but upon our complaining to the Captain of this, he ordered us to have the original quantity of two quarts and half a-pint. That quantity was again reduced on the 13th of February to three pints and a-half. The Captain wrote a letter [letter of the 12th February, 1857, produced] on the 12th February about the water.

There was no difference made on the dietary scale given to us with our contract ticket by Messrs. Baines & Co. at Liverpool. The water was again reduced on the 18th March, to two pints and a-half. The Captain wrote a letter [letter of the 18th March, 1857, produced] to the passengers to the effect that in consequence of foul winds, he should be compelled to reduce our allowance of water. On the 11th March we had no pepper. On the 21st we had no rice, but three days afterwards we were supplied with preserved potatoes. On the 28th, the day before we arrived in this harbour, the pickles, raisins, and sugar, were stopped.

We had both pickles and vinegar during the voyage; sometimes one, and sometimes the other. The cooks' galley was too small for him to cook for the number of passengers. This produced great irregularity in supplying the cooked provisions to the passengers. I have known the dinner on one or two occasions not ready for us until about six o'clock in the evening.

This occurred previous to the Captain having accepted the services of two of the Emigrants who volunteered to cook for us.

After this we got on very fairly as to regularity in our cooked provisions being supplied to us, until the galley got adrift from bad weather. The cooked provisions were generally supplied to the first party before two o'clock, that is to those who were fortunate enough to get their provisions put to be cooked in good time. I was unwell for about three days during the voyage. I did not apply to the Doctor, as I received some medicine from a fellow passenger which set me all right again. There was a great deal of sickness on board and several deaths.

Amongst them there were five adults including the one which took place in this harbour. My berth was abreast the fore hatchway. The single men had the best berth in the ship, but there was a great stench from the male hospital being so near to us. We were compelled to paste paper up against

the bulk-head to keep the stench out.

We were cooking all night, when any of us were too late at the galley we kept our meat and dough until night, and after it was cooked, we preserved it to eat cold the next day.

By Mr. King for Defendant.—I have summoned Captain Rutherford in this Court for breach of my contract ticket. That case has not yet been heard. I drew up the complaint which was presented to Captain Sharp on board the "Ann Wilson." It was signed several days before we came into this port. I have been at sea before. We had head winds after we sighted Banks' Peninsula. I think we sighted the Peninsula more than a week before we came into this port.

The short supply of water to the passengers continued up to, I believe, the day before we came into this port. We had then an unlimited supply of water for we were within sight of the port. The Purser of the ship, Mr. Morris, served out the provisions to us. There was a printed notice signed by Baines and Co., stuck up on the main and foremasts, stating that our provisions would be served out to the passengers two days in the week. The provisions were served out to us only once a week for some time. Afterwards it was served twice a week. It was bad weather on the occasions that we had our dinners served out to us as late as six o'clock in the Evening. I am not aware of there having been any complaint made of the provisions having been served out once a week instead of twice. Having had some experience at sea, I am competent to give an opinion as to the cooks' galley of the "Ann Wilson." I do not think it would cook for more than from sixty to seventy persons at a time. We complained to the Captain of the bad arrangement respecting the cooking for the passengers.

This was about the beginning of January. The Captain upon that complaint appointed two of the passengers to assist the cook. Besides those two, there was an assistant to the cook. The Captain could not have done anything to alter the inconvenience of the cooking galley after we had put to sea unless he had gone into some port. There would be no waste in well regulated ships of water in being first supplied to the cook, and then given to us by him afterwards.

Our rice and potatoes were cooked in fresh water. The water that we had served out to us was for drinking for our tea, and for breakfast. We made frequent complaints to the Captain of our short supply of water. Our first complaint was made after we had been at sea about a month. The Captain made answer to our complaints, "I can't help it, the water is supplied to your cooks." I think if the Captain had the water on

board, I have no doubt whatever but that he would have had it served out to us. A complaint was made at one time to him of some of the provisions being bad. He remedied it as well as he could.

By the Court.—I never remember the dinner served out to the whole of the passengers before two o'clock at any time during the voyage. There were no horse buckets in use for drawing off the water, had there been any, there could have been no waste.

(Signed) JAMES BARNES.

Sworn before me this

9th day of April, 1857.

(Signed) HENRY ST. HILL, R. M.

William Catt, being sworn, states—I was a passenger in the barque "Ann Wilson" from Liverpool to Wellington; I acted as an assistant cook during the voyage. The cooks' galley was not large enough to enable us to work for the whole of the passengers at one time, and we were therefore compelled to be cooking for them night and day. Some of the passengers got their dinners cooked in the day and some at night. The water that was served to us for cooking was not sufficient, the food was therefore sometimes only half cooked. I refer to the peas, rice, and potatoes. The quantity of water I received daily ought to have been fifty-four gallons, and that quantity was for cooking and for breakfast and for tea purposes.

I do not know the quantity of water that was served out to us.

By Mr. King for defendant.—During the time that I was acting as cook, the carpenter served us with the water.

It was on the 15th December that I commenced to act as cook. I believe Mr. Morris, the purser, supplied the water to the passengers previous to the period that I acted as cook.

Captain Rutherford paid me £3 a month for acting as cook. I paid the man who acted with me as cook out of my wages.

I spoke to the Captain respecting the short quantity of water supplied to us. His reply was, that it must be stolen by the passengers from the cask on deck.

The water was brought out of the hold in buckets and turned into a cask on deck, when the Captain said that the water must be stolen. I slept for six nights over the cask to find out if his suspicions were correct.

I do not believe that any of the passengers ever knew that I had done so.

(Signed) WILLIAM CATT.

Sworn before me this

9th day of April, 1857.

(Signed) HENRY ST. HILL, R. M.

George King, being sworn, states—I was a passenger in the barque “Ann Wilson” from Liverpool to Wellington. I was in No. 15 mess. When we first sailed, I did not get any water supplied me by the ship, I had some with me when I went on board, and it lasted for about a week. I did not see any water supplied to any of the passengers during the first week. I think the water was supplied to the other passengers for the first time when I received it the first time.

The first quantity that I received was one quart for drinking. We all received the same quantity; it was afterwards increased to three pints daily. It was never more than three pints, but it was reduced again to a quart, and the last week of the voyage to a pint. We received the quantity of provisions specified in the contract ticket given me by Messrs. Baines & Co., at Liverpool, until nearly the end of the voyage, when we became short of pepper, raisins, rice, and sugar.

This was during the last week, our meals were never served to us regularly; sometimes we received it by 2 o'clock in the day, sometimes it was as late as six o'clock. This arose from there not being sufficient room to cook it.

By Mr. King for Defendant.—I made no complaint to the Captain of the irregularity. I was sick during the first part of the voyage. I took on board about eight quarts of water.

This was only for drinking water for me and my wife and five children.

(Signed) GEORGE KING.

Sworn before me this

9th day of April, 1857.

(Signed) HENRY ST. HILL, R. M.

Richard Fairbrother, being sworn, states—I was a passenger in the barque “Ann Wilson,” from Liverpool to Wellington. I have a wife and four children who accompanied me. No water was issued out of the hold of the vessel until the day after we sailed from Liverpool. The first quantity of water that was served out to me and my family was four quarts daily for drinking, and about five pints for breakfast and tea.

This quantity continued until a complaint was made to the Captain, when we had another pint for each adult allowed us. The complaint was made at the end of the first fortnight after we left Liverpool. When we were off the Cape the water was reduced to a quart each adult, and when we were within ten days sail of New Zealand the water was reduced to a pint each.

We had to cook our oatmeal and rice out of the water served out to us. We had the

quantity of provisions specified in our contract ticket. The flour was at one time very bad. We complained of this to the Captain, and it was changed for some that was better, but even *that* was not very good. Our cooking was very irregularly conducted. We were compelled to get our meals cooked as best we could. One reason for this irregularity was, that the cooking apparatus was insufficient for the number of passengers, and another was, that there was not sufficient water served out for cooking.

My berth was one of the best in the ship, my family did not suffer much from sickness, but they did frequently from hunger. All the passengers were served with the same quantity of water daily. I used to stand near the main hatch and see it served out. There were continual complaints made during the voyage principally about the small supply of water.

By Mr. King for Defendant.—The Purser served the water out for the first few days, and afterwards the carpenter for the remainder of the voyage. I do not know who put the Purser on board. At the first part of the voyage the passengers were in the habit of crawling over the coals for the water, and hand it from one to another. Afterwards the sailors obtained it in buckets. I have heard the Purser spoken to by some of the passengers about the way that the water was served out. I remember while the steam-tug was tugging the vessel, my wife asked the Purser for some water; he refused to let her have it. About a fortnight after we started, we all made a complaint to the Captain of the small quantity of water that we received. The Captain was repeatedly between decks going his rounds. I once complained to the Captain of some peas that was badly cooked. He replied that he could not help it, that he had come on board without knowing anything of what was in the ship. I believe the cooks did the best they could to get the cooking done, I refer to the passengers who acted as cooks, but I do not think the man who was shipped as cook, did all he might have done to accommodate us.

(Signed) RICHARD FAIRBROTHER.

Sworn before me this

9th day of April, 1857.

(Signed) HENRY ST. HILL, R. M.

Dennis McKenny, being sworn, states—I was a passenger in the “Ann Wilson” from Liverpool to Wellington. My wife and two children accompanied me. We had no water for the first day after we left Liverpool. The quantity supplied on the next day was, for me and my family, two quarts and a half pint for drinking. I made a

complaint afterwards to the Captain of this small quantity, and he then said that he did not know what water there was on board, that he must be very careful of it until we got into warm weather, and then he would see what he could do. We were generally on a short allowance of water all the passage. I lost one of my children on the voyage out: when the child was very ill, I bought some water from one of the passengers for it. At that time I asked the Captain for a little more water, he stated that I had the same allowance as the rest. The Doctor of the ship came below, and I said to him, "Doctor we are very short of water indeed," he replied, that was a cry throughout the ship. I asked the Doctor to allow me a little broth from the cabin. His answer was that he did not like to have any thing to do with the Captain.

I asked the Captain once or twice for some fresh meat to be cooked for my sick child. He refused it. I asked him in a respectful manner. He said the meat belonged to the first class passengers, and that he had nothing to do with it. I lost my child. The Doctor stated to me that he died from actual want. My berth was in the after part of the vessel. A man and his son who were in the next berth to me, died. That part of the vessel was very badly ventilated. There was more sickness in that part of the vessel than in any other. When we were in any hot weather several persons in that part of the ship complained of being nearly suffocated, I spoke to the Captain about this. His reply was that there was no wind, and that I had better make a bellows and blow down the windsail.

I asked the Captain, when my son was so very ill, to sell me some wine for him. He replied that he had none. The salt meat that was served out to our mess on several occasions was so bad, and had so unpleasant a smell, that I threw it overboard. Our dinners were very irregularly served. They commenced serving out from the galley about 2 o'clock in the afternoon and it continued to a late hour, but I cannot say the hour. Sometimes my peas were so hard that they were not fit to be eaten, and when I complained to the cook, his reply was that he could not help it as he had not a sufficient quantity of water.

By Mr. King for Defendant—There were several passengers present when I spoke to the Captain for some meat, but I cannot now recollect who they were. I asked the Doctor on one occasion to obtain a little more water for my child. He seemed to be disinclined to have any thing to do with the Captain. I had arrowroot

for my child as long as it lasted. I obtained some barley to make barley water for the child at the Doctors direction. The Doctor never supplied me with wine for the child. What I had, I bought at the rate of three shillings a bottle. I had no quarrel that I can recollect with the Captain. He once ordered me off the poop. If I had any quarrel with him I do not now remember it. My family and another man's messed together. On the third day after leaving Liverpool we received four quarts and a half pint of water for me and my family. I did not measure the quantity, but I judged that to be the quantity.

(Signed) D. McKENNY.

Sworn before me this

9th day of April, 1857.

(Signed) HENRY ST. HILL. R. M.

John Magee, being sworn, stated—I am a Surgeon, I came out to this settlement in the barque "Ann Wilson" as surgeon of that vessel. The passengers were under my medical charge. There was a great deal of sickness, and twenty deaths on the voyage out, I attribute the sickness and mortality in a great measure to the want of nutritious diet and the insufficiency of water, added to the bad ventilation of the vessel. There was a medicine chest on board, it was supplied with medicines, but not such as I should have liked to have prescribed for the sick, the laudanum, ether, and spirits of wine were deficient in quantity. There were medical comforts on board, but they were decidedly insufficient for the number of passengers: there was not sufficient arrowroot. The preserved milk was so bad it could not be used, there was no sugar nor soap. The wine was very short, there was only one dozen bottles. The sago was insufficient in quantity. The brandy was also very short in quantity, there was only one dozen bottles. The medicine chest I was informed had been passed by the proper officer, it was sealed when it was handed over to me, and that was the reason I did not think it necessary to examine its contents. I was told by a medical gentleman, who examined my instruments on board, that I would find the medicine chest in the ship's hospital. I saw the chest the same evening that we were tugged down the river. Numerous complaints were made to me during the voyage by the emigrants of the small supply of water that was served out to them. The Captain was generally present when those complaints were made. I do not know the quantity of water that was put on board. On one occasion when I wanted some wine for a sick passenger I obtained it, but on another occasion when I wanted some for a cabin passenger, the captain told me that I

could not have it. I always had fresh meat for the sick when I applied to the Captain for it. Dennis McKenny, one of the emigrants, made several applications to me for fresh meat for his sick child, and he always had it when there was any in the cabin, but sometimes there was none. I never made an application to the Captain to put into an intermediate port, because applications had been made to him by some passengers at the time that we were going our daily rounds when he stated it was impossible to do so. I was present when the emigrants underwent a medical examination on board by two medical gentlemen, one of whom afterwards examined my instruments.

By Mr. King for Defendant.—I remember one occasion when an application was made to the Captain to put into an intermediate port. We were then near Tristan da Cunha. On another occasion we were off the Cape. The weather was bad when we were off Tristan da Cunha. I believe we went far south, but I know nothing of how the ship steered. I received no direct instructions not to open the medicine chest while the vessel was in the River. I was engaged by Messrs. Baines & Co., as surgeon of the ship. The last ten days of the passage I could not find any arrowroot in the vessel. The sago lasted until within ten days of our coming into this port. I made no request to the Captain to increase the supply of water to the passengers, I should have thought it useless to have made such request as I took it for granted that there was not much water in the hold. There was a list of the medicines in the chest fixed inside the lid. Mr. James Baines gave me directions as to what were my duties as surgeon of the vessel, and he gave me a medical diary, in which I was to enter all that occurred. I cannot say that any of the deaths on board the vessel were brought about by any act of the Captain. The Captain always gave me what he could from the cuddy table for the sick, but the supply for the cuddy table was very scant indeed. The Captain visited the emigrants twice a day with me when his duties allowed him to do so. The Captain's wife was very ill on the voyage, she was confined, and is still very unwell. The Captain told me that I could not have any wine on the last occasion that I asked for it, as I presume he required it for his wife. When I applied to the Captain for any medicine, he always let me have it if he had any.

(Signed) JOHN MAGEE.

Sworn before me this
9th day of April, 1857.

(Signed) HENRY ST. HILL, R. M.

Adjourned to the 13th Instant.

(Signed) HENRY ST. HILL, R. M.

Resident Magistrate's Court,
Wellington, 13th April, 1857.
SHARP v. RUTHERFORD.

Adjourned Case.

John Buck, being sworn, states—I am carpenter on board the "Ann Wilson" now at anchor in this port. I sailed in that vessel from Liverpool for this port, I was in her on a former voyage. I was not in the vessel at the time when the water was put on board for her voyage to New Zealand. I was not aware of the quantity of water that was put on board, nor the number of the casks. I served the water out to the emigrants on board the vessel from the ninth of December up to our arrival here. Mr. Morris, the purser, served the water out up to the ninth of December. We sailed from Liverpool on the 29th of November last. Mr. Morris was relieved by Captain Rutherford from serving out the water, I heard the Captain tell Mr. Morris that he was incompetent to that duty. The Captain directed me to serve out one quart of water to each adult passenger for drinking on the ninth December, and he directed me to supply as much water as the coppers would hold for cooking, as well for breakfast and tea. When the warm weather set in, the passengers complained to the Captain of the small supply of water, the quantity was then increased to three pints. When I first saw the water casks they were not full, I examined the casks as well as I could get at them for the cargo and luggage, I observed some of them were within ten inches of being full, some empty, and some partly empty. There were three casks empty, and three half full, there were none of them full that I could get to look at. The Captain instructed me to make a survey of the water casks about the 15th February, as nearly as I can recollect, but I have a memorandum of it on board, in a book. I think it was from leakage of the casks that they were not quite full and partly empty, that leakage was occasioned in my opinion from the severe weather which we experienced about a week after we sailed from Liverpool, which lasted for a fortnight. I think the bad weather began previous to my taking charge of the water. It was from Mr. Morris not being able to do his duty, he not having been to sea before, and the bad weather setting in, that the Captain directed me to take charge of the water. I heard no complaints made by the emigrants about the water until we got into the warm weather. If there had been any complaints I must have heard them. There was no diminution in the quantity supplied for the coppers when the water was increased to three pints a day, the quantity of three pints a day was continued for about a month, and during the hot weather. That quantity was again re-

duced to one quart, and continued so within a few days of our arrival in this port, it was then reduced to one pint, in consequence of there being little water remaining on board, the quantity of one pint lasted only three days as we then made this harbour. We had head winds and light winds at the time the water was reduced to one pint. I issued water to the hospital whenever it was required by the Doctor without any regard to the quantity. I do not know the number of water casks that were in the vessel, but I think the number was between seventy-six and eighty, the casks varied in size, I do not know what quantity they held.

By Mr. Hart for Charterers—The object of my survey of the casks on the voyage was to ascertain if any of them leaked. Those casks that were empty and partly empty had never been broached. Had they been full they must have leaked out from the bad weather. I do not think any of the casks could hold 300 gallons. There were two water tanks on board, each might hold about nine hundred gallons.

By the Court—Some of the casks might have held 250 gallons some 200 and some about 150 gallons. I think there were more casks of 250 gallons than of any of the other sizes. The two cooking coppers hold together from fifty-two to fifty-four gallons. I think bad weather might have caused the casks to leak even though they had been properly staved and were quite sound and perfect.

(Signed) JOHN BUCK, Carpenter.
Sworn before me this

13th day of April, 1857.

(Signed) HENRY ST. HILL, R. M.

John Magee, being sworn, stated—I am a surgeon. I came out as surgeon of the barque “Ann Wilson” from Liverpool to this Port. I was examined in this Court in the present case on the 9th instant. On that examination I stated that there was a deficiency, in my judgment, of some medicines in the chest on board the vessel. I had no means of measuring the quantities contained in the bottles in the chest. The bottles were full when the chest was put on board. I did not compare the quantity of medicine in the chest with the quantity specified in the list affixed on the lid of the chest. Every thing was perfect and complete as regarded the medicines in the chest when I opened it. I have no reason to doubt that that medicine chest was properly examined and sealed by a Medical Officer at Liverpool at the time it was put on board.

(Signed) JOHN MAGEE.

Sworn before me this

13th day of April, 1857.

(Signed) HENRY ST. HILL, R. M.

John Magee, recalled—the list affixed on the lid of the medicine chest on board the “Ann Wilson” states that the medicines specified therein are such as are required by the Board of Trade to be put on board a passenger ship for every one hundred persons. The medicines in the chest corresponded with that list in every particular.

(Signed) JOHN MAGEE.

Sworn before me this

13th day of April, 1857.

(Signed) HENRY ST. HILL, R. M.

Judgment declared upon the breaches of the 14th, 35th, and 36th sections of the Act, as set forth in the Information hereto annexed.

The Defendant acquitted upon the 43rd and 44th breaches.

Adjudication upon the amount of penalties upon the breaches, adjourned to the 20th instant, and at request of Defendant’s Council, further adjourned to the 24th instant.

(Signed) HENRY ST. HILL, R. M.

Resident Magistrate’s Court.

Wellington, 24th April, 1857.

Penalty adjudged upon breach of the 14th Section, that is to say, for carrying (57) fifty-seven passengers beyond the number authorized by the requirement as per deck space, at Twenty Pounds each.	£1,140
Upon One Hundred and Twenty (120) days breach of the 35th Clause, which relates to the issue of water, Five Pounds for each offence.	600
Upon (120) One Hundred and twenty days breach of the 36th Clause, which relates to the provisions not having been served before two o’clock, One Pound each.	120
In all	£1,860

(Signed) HENRY ST. HILL, R. M.

CHARLES SHARP,	}
<i>Complainant.</i>	
ISAAC HENZELL RUTHERFORD,	}
<i>Defendant,</i>	
CITY OF WELLINGTON,	}
PROVINCE OF WELLINGTON,	
IN THE COLONY OF NEW	
ZEALAND.	

BE IT REMEMBERED, That on the Ninth and Thirteenth days of April instant, ISAAC HENZELL RUTHERFORD, Master of the Barque “Ann Wilson,” now at anchor in the Port of Wellington, in the said Colony,

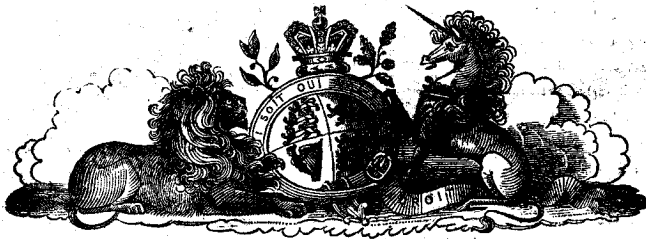
personally came before me, Henry St. Hill, Esquire, Resident Magistrate at Wellington, aforesaid, to answer the complaint of CHARLES SHARP, Emigration Officer, at Wellington, aforesaid, for breaches of the Fourteenth, Thirty-fifth, Thirty-sixth, Forty-third, and Forty-fourth sections of the Passengers' Act, 1855, in that the said Barque "Ann Wilson" did carry on her lower deck a greater number of passengers than in the proportion of one statute adult to every twenty-five clear superficial feet thereof, that the said Isaac HENZELL Rutherford, master of the Barque "Ann Wilson" did not, during her voyage from England to New Zealand, issue to each passenger an allowance of water and provisions in accordance with the dietary scale fixed by the said Act, that the said provisions supplied were not issued daily, and the articles which required cooking were not cooked, that the supply of medicines and medical comforts provided for the passengers by the said Barque "Ann Wilson" were neither good in quality nor sufficient in quantity, and that the said Barque "Ann Wilson" did clear out and proceed to sea without due medical inspection being had of the passengers and medicines on board the said Barque.

WHEREUPON, I, the said Resident Magistrate, did proceed to examine into the complaints so made against the said Isaac HENZELL Rutherford, and the said breaches of the Fourteenth, Thirty-fifth and Thirty-sixth Sections of the said Act having been fully proved to my satisfaction by the testimony on oath of the said Charles Sharp, James Barnes, William Catt, George King, Richard Fairbrother, Dennis McKenny, John Magee, and John Buck, credible witnesses, I do convict him, the said Isaac HENZELL Rutherford, of the offences aforesaid, and I do adjudge and order that he shall pay to the said Charles Sharp, as such Emigration Officer, the sum of One Thousand Eight Hundred and Sixty pounds (£1,860), by way of penalty, and shall also pay to the said Charles Sharp the further sum of Five pounds Ten shillings and Sixpence (£5 10s. 6d.), for the costs and charges by him the said Charles Sharp, incurred in the prosecution of this matter.

Given under my hand and seal,
 this Twenty-fourth day of April,
 One Thousand Eight Hundred
 and Fifty-seven.

(Signed) HENRY ST. HILL, R. M.

Council Paper.



CONTINUANCE OF CORRESPONDENCE BETWEEN THE PROVINCIAL AND
GENERAL GOVERNMENTS, RELATIVE TO NATIVE LANDS.—LAID ON
THE TABLE OF THE PROVINCIAL COUNCIL, SESS. V.

Colonial Treasury,
Auckland, 7th February, 1857.

SIR,—

With reference to my letter of the 14th ultimo, No 41, (printed in Correspondence Session IV, page 12,) on the subject of the purchase of lands from the Natives in the Province of Wellington, I have the honor to call your attention to a proclamation in the Government Gazette, No. 3, of the 5th instant, declaring that the Native title has been extinguished over the Marakakaho and Mata blocks of land.

I have, &c.,

(Signed) C. W. RICHMOND.

His honor

The Superintendent
Wellington.

(The following is the Proclamation alluded to in the Despatch of the Colonial Secretary, 7th February, 1857.)

PROCLAMATION.

By His Excellency Colonel THOMAS GORE BROWN, Companion of the Most Honorable Order of the Bath, Governor of the Colony of New Zealand, &c., &c., &c.

WHEREAS by an Act of the General Assembly of New Zealand intituled "The Waste Lands Act, 1856," it is enacted that no land acquired from the Aboriginal Inhabitants after the passing thereof shall be open for sale or disposal until the Governor shall have notified by Proclamation in the *New Zealand Government Gazette*, that the Native Title has been extinguished over such land.

Now, therefore, I, the Governor, Do hereby *proclaim* and *notify* that the Native title has been extinguished over the two several blocks of Land the bound-

aries whereof are mentioned or described in the Schedule hereunto annexed.

Given under my hand, and issued under the Public Seal of the Colony of New Zealand at Auckland this sixteenth day of January, In the year of Our Lord one thousand eight hundred and fifty-seven.

THOMAS GORE BROWNE,
Governor.

By His Excellency's command,
E. W. STAFFORD.
GOD SAVE THE QUEEN.

SCHEDULE.

No. 1.

BOUNDARIES OF THE MARAEKAKAHO BLOCK;

Estimated to contain 30,000 Acres;

Commencing at the mouth of the Maraekakaho River and running up stream, on the boundary of the land sold last year (the Aorangi block) to Makaramu, te Aroha, te Waikoukou, whence it runs on shore on the old boundary to Kēkakeka, te Paua, Rakauwharoa Parikaranga, there it falls into the Mangaonuku and runs down stream to te Waiohora, thence it follows the boundaries of the land first sold (Te Hapuku's block, boundaries of December, 1851) as far as to Ahitara o te Houkura, and still follows the said old boundary to te Ruakaka, thence there and runs to te Ahipakura, thence to Pou a whakaaraha, thence to te Waitangitanga, thence to te Waka, thence to te Kaitaha, thence to the Waikoreke, thence to Tiritirimatanga, down which it runs to Ongaru, and there follows the stream to Pokotaringa running parallel to the Ngaruroro which the boundary crosses running up a gully from the swamp and thence it runs down to te Urura o Makai where it falls into the Ngaruro and runs up the stream till it joins the starting point at the mouth of Maraekakaho.

No. 2

BOUNDARIES OF THE MATA BLOCK.

Estimated to contain 16,000 Acres.

Commencing at te Ngakau o Hape, running thence te Taumata o te Mihiroe, thence to te Rou Pungarehu, thence to Hikahika, thence to te Waikaka, thence to te Wai o Hinerakai, thence to te Taumata o Puku, where it turns and runs along the ridge to Papahuakina, thence to Taurua, thence to te motu o Hinerangi, thence to the Taurua, thence to Kaiwaka and down the Tukituki to te Ahi Koura, thence across the plain by a trench cut by Mr. F. FitzGerald, Waipuna,

and through the middle of the swamp, to Karituwhenua.

The boundary of the Reserve called "Karaunua's land" begins at Karituwhenua and runs in a straight line to te Hau, thence it runs along the ridge to te Kahurangi, where it turns and the Moko-peke, thence to Wanawana, and thence to te Ngakau o Hape.

II.

(No. 51. 6th (5th) Feb, 1857.)

Colonial Treasury,

Auckland, 18th February, 1857.

SIR,—

I have the honor to acknowledge the receipt of your communication addressed to the Colonial Secretary, of the number and date cited in the Margin, [See Correspondence, Session 4, Page 11,] and in reply to that portion of it in which you state your opinion that it would be desirable that the Superintendent should indicate the Districts which the Land Purchase Commissioners should be instructed to purchase, I beg to inform your Honor that His Excellency the Governor has objected to any arrangement which would place the Officers of the Land Purchase Department in direct Official communication with a Provincial Government.

At the same time I, myself, as the Minister more particularly charged with the duty of advising His Excellency in relation to the business of the Land Purchase Department shall be at all times glad to be put in possession of Your Honor's views respecting the conduct of the operations of the Department within Your Honor's Province, and in making my recommendations to His Excellency upon the subject, shall be ready to give to your suggestions the weight to which they are justly entitled.

I have further to inform you, in connection with the subject of the last three paragraphs of your communication now under reply, that His Excellency has been pleased to sanction the appointment of the late Surveyor General of New Zealand, Mr. Ligar, to be Commissioner for the Purchase of Native Lands in the Hawke's Bay and adjacent districts, and Resident Magistrate at Napier.

In consequence of a temporary engagement contracted by Mr. Ligar, with the Provincial Government of Otago, some short time will elapse before he can enter upon the duties of those Offices, but the difficulty of finding a fit person to be entrusted with the important duties of a Land Purchase Commissioner is so great, that the Government has not hesitated to secure the services of Mr. Ligar, notwithstanding this disadvantage.

As Mr. Ligar will be wholly occupied in negotiating new purchases the proportion of his salary which he receives as Land Purchase Commissioner, namely, Three Hundred Pounds per annum, will be charged against that part of the loan of £180,000 which is allocated to the Province of Wellington.

I have the honor, &c.,

Signed) C. W. RICHMOND.

His Honor

The Superintendent
Wellington.

III.

Superintendent's Office,
Wellington, 6th March, 1857.

SIR.—

I have the honor to acknowledge the receipt of your Despatch of the 18th February, in which you inform me in reply to my request that the Superintendent should be permitted to indicate the Districts which the Land Commissioners should purchase, "that His Excellency the Governor has objected to any arrangement which would place the Officers of the Land Purchase Department in direct Official Communication with a Provincial Government."

I trust I shall not be deemed wanting in respect to His Excellency if I submit that this determination is in contravention of the spirit of the Resolutions passed on this subject by the House of Representatives, and is wholly at variance with the course pursued by His Excellency's Predecessors—Sir George Grey and Colonel Wynyard.

During the few months he remained in this Province after I had assumed my present Office, Sir George Grey uniformly instructed the Commissioners and himself used his own personal influence with the Natives, to purchase the Districts which I considered it for the interests of the Province to acquire. His Excellency Colonel Wynyard, also acted during his administration in the same spirit, by sanctioning a loan obtained from the Union Bank (on the personal security of myself and others) for the purpose of buying certain blocks which were indicated to the Commissioners by the Provincial Government without any reference to the General Government.

I regret, however, the decision thus come to by his Excellency, chiefly because, involving as it does endless delays and references, I feel certain that it will tend to create great dissatisfaction in the native mind, and to lead to collisions between the two races.

Within the last few days I have received communications from the Settlers

located on the Porangahau block, stating that in consequence of the natives insisting upon a few hundred pounds more than Mr. Cooper is authorised to give, there is little chance of the purchase being effected, and that in all probability an attempt will be made to drive the settlers off. As this would be attended with utter ruin to them it can scarcely be expected that they will submit without offering all the resistance in their power. They make an urgent appeal to the Provincial Government to avert such disastrous consequences, by advancing (and instructing Mr. Cooper to give) six hundred pounds in addition to the amount sanctioned by the General Government; an appeal which I may find hard to disregard without endangering the peace of the Province.

The natives at Cape Turnagain, also, are so enraged at the dispute relative to the purchase effected there by Mr. McLean, not having been arranged, that they have threatened forcibly to drive off Mr. Wallace who has been settled there some years. Mr. Wallace is, I understand, on his way to claim the protection of the Provincial Government.

From the enclosed copy of a letter just received from Manihera, a highly intelligent and influential Chief of the Wairarapa, you will perceive that he complains of the non-fulfilment by the General Government of the engagements entered into with him, and of the injury he has suffered in consequence. But here again, if I interfered to afford Manihera relief, and to remove his dissatisfaction at the conduct of the General Government I should be acting contrary to the instructions and wishes of his Excellency the Governor.

The natives of Turakina also complain that the General Government have broken faith with them in not having long ago completed the arrangements made with them by Mr. McLean for the purchase of a small reserve of about 1,000 acres.

Numerous other facts might be adduced all tending to show that if the system under which the operations of the Land Purchase Department has hitherto been conducted, be persisted in, the difficulties of effecting purchases will be materially increased; the progress of the Province seriously retarded; and also that it will be well nigh impossible to preserve the public peace.

Permit me at the same time to express my sincere thanks to the Ministry for the assurance that they will be prepared to press any suggestions I may make

upon the consideration of his Excellency.

I would again urge the vital importance of at once completing the purchase of the Forty Mile Bush. It is true that Mr. McLean says, that as some twelve miles of this District are already acquired, the Provincial Government might commence the road immediately, but it must be evident that if the Provincial Government were to act upon that suggestion and expend several thousand pounds in making that portion of the line, the natives would be induced to demand a much larger sum for the remainder of the district than they are at present disposed to take.

While I am gratified to learn that Mr. Ligar has been appointed Land Purchase Commissioner for the Hawke's Bay District, I have to express my regret that he has also been called upon to undertake the duties of Resident Magistrate, believing that the two offices are wholly incompatible with each other. I must also be permitted to add that the usefulness of Mr. Ligar will depend entirely upon his being placed in an independent position. To make him subordinate to Mr. McLean, or to fetter him with such instructions as have been given to Mr. Cooper, will simply be, to destroy all his influence with the natives.

I have the honor to be, &c.,

(Signed) I. E. FEATHERSTON,
Superintendent.

The Honorable the
Colonial Secretary,
Auckland.

*A correct Translation W. L. Buller,
Native Interpreter.*

[2-3-57.]
Otaraia, Wairarapa,
23rd February, 1857.

To Featherston,
the Superintendent.

FRIEND,—

I write to inform you of my difficulties. I have received a Summons for the amount of my debts. I have not yet settled them: the reason is—I have no money wherewith to pay; I am awaiting the arrival of McLean; I am to receive money from him, and will then be enabled to satisfy all these claims. This money is withheld from me, and I am thereby involved in difficulty. I now submit the matter to you; I had implicit confidence in the Government, and therefore felt no hesitation in purchasing, on credit, the goods for which I am now summoned.

Friend,—Do thou advance me money, upon the strength of McLean's arrangements. If you decline to this proposal,

then advance me a Loan, and I will either refund it when McLean pays me, or I will give you Land, equivalent in value to the sum you may advance. If you refuse to do this, then what object can be gained by summoning me in this way?

But I must submit to be crushed. When the Land was mine own, no summons ever reached me; but no sooner had I parted with it to the Government; than my difficulties commenced. On this account do I refer the matter to you; you can restore me to comfort. Here I am, desirous of selling a portion of my land, but to whom can I sell? To you alone am I permitted to dispose of it, and if you abandon me in my difficulties, what am I to do? Why should we spare the Land? Has it Life? No. But I am a living being.

Friend,—Now that I am plunged in distress shew me a proof of your regard. If my creditors will not be willing to wait patiently until I can meet their demands, but are determined to press me, then no other course is open to me, but that of selling land to you.

Friend,—This is the substance of my letter;—I wish you to advance me Five Hundred Pounds (£500). This will cover all their claims, I will make such arrangements with you as will insure its repayment.

If you accede to this request, write to me, and I will proceed to Wellington, both to complete the arrangements with you, and to pay my debts.

It is ended,

From your friend,
MANIHERA TE
Rangitekeiwaho.

IV.

Colonial Treasury,
Auckland, April 1st, 1857.

SIR—

I have the honor to acknowledge the receipt of your communication of the 6th instant, No. 87, relative to Land Purchasing operations in the Province of Wellington.

Referring first to certain points of detail I beg to assure your Honor that the business of the Land Purchase Department in the Province of Wellington, and more especially in the Ahuriri and adjoining Districts is engaging the earnest attention of the Government. It is impossible that you should take a stronger view of the necessity of rapidly extinguishing the Native title wherever opportunity offers than do his Excellency's present advisers. Every effort shall be used to close the purchase of the Poran-

gahau North Block, with this sole limitation, that the Government will not, in pursuit of a small immediate advantage such as the acquisition of a particular Block, depart from those general principles of Policy which ought to regulate all dealings with the Aborigines for the cession of their territorial rights, nor will they sacrifice or risk the general good to serve the interest of a few.

The present European settlers on the Porangahau are, I am compelled to say, specially disentitled to any assistance from Government not perfectly consistent with general expediency, as their occupation of the Block is in open violation of the Law. Your Honor makes mention of an apprehension entertained by some of the Squatters that they may be brought into collision with the Natives. The information of the Government as to the state of the District is I believe as recent, and probably more authentic, than your Honor's, and affords no sufficient ground for such an apprehension. Those persons have, I am aware, been threatened with prosecution for illegal occupancy of Native lands, which may possibly have given rise to the representation that they were likely to be forcibly expelled by the Natives.

As regards Mr. Ligar's appointment I have to inform your Honor that it is already arranged that he is to be independent of the Native Secretary. The appointment as Resident Magistrate at Napier is merely provisional, and so soon as a satisfactory appointment can be made to that Office, it is fully understood that he will be relieved of it, as the Government entirely concur in your Honor's opinion that it is inexpedient to unite the Offices of Land Purchase Commissioner and Resident Magistrate in one individual.

I may here conveniently remark that I have seen printed with certain Correspondence lately published by the Provincial Government of Wellington in reference to the subject of the present communication, what purports to be a letter addressed by your Honor to the Colonial Secretary under date 22nd December, recommending Mr. Ligar's appointment to the Office of Land Purchase Commissioner, but no such letter has ever reached the Government.

Coming to the main subject of your communication now under reply, I observe its general argument is addressed to show that, to the numerous and important functions already vested in your Honor, it is expedient there should be superadded the practical direction of the

Land Purchase Department, and (as almost of necessity incident thereto) the management of Native affairs in general throughout the Province of Wellington, to the exclusion of all real influence or control on the part of His Excellency and his Excellency's Government. An arrangement which you seem to represent as entirely accordant with the spirit of the Resolutions of the House on Native affairs, and with the practice of former Governors, and as calculated to preclude for the future every kind of difficulty in relation to this branch of Administration.

It can scarcely be necessary to express the entire dissent of the present Government from views like these. Your reiterated request that the Land Purchase Commissioners may have general instructions to purchase whatever districts you may point out, I have submitted to his Excellency who adheres to his former determination not to permit those officers to receive instructions from a Provincial Government.

His Excellency's Ministers entirely concur in this resolution. For with the fullest disposition to concede to your Honor the exercise of a proper influence in the matter, they cannot consent to abandon such measure of control as they now constitutionally possess, in their capacity of his Excellency's advisers, and under the express terms of the Resolutions of last Session,—seeing that they are responsible to the Colony for the due exercise of that control, and that every Province is interested in the mode in which Land Purchases are conducted in other Provinces.

It is obvious therefore, that the subject is not one which can be further discussed with advantage in a correspondence between the General and Provincial Governments.

Meantime Your Honor's judgment, will, the Government are persuaded, save the Executive of Wellington from a course so fraught with confusion, and in its ulterior consequences, even with disaster, as would be the unauthorised interference with pending negotiations with the Natives. I will also add that the present administration hold it to be a plain duty incumbent upon them, which they are fully prepared to discharge, to defend this branch of the Royal Prerogative by all constitutional and legal means against whatever encroachments may be attempted.

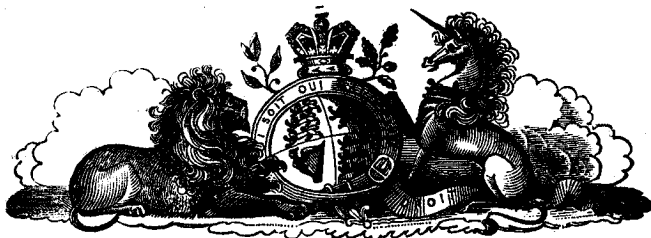
In accepting on behalf of the Ministry your Honor's thanks for the assurances I have from time to time conveyed of the desire of Government to give the fullest

consideration to your suggestions as to land Purchases—assurances which I desire to renew—I am bound to remark that no expression ever used by the Government will justify your interpreting those assurances, as you appear to do, in the sense of an absolute undertaking “to press any suggestions you may make upon the consideration of His Excellency.” And I am further enabled to state that His Excellency himself is

fully alive to the vital importance of the vigorous prosecution of negotiations for the extinction of Native title, so that urgency in the matter on the part of Ministers would be uncalled for.

I have, &c.,
 (Signed) C. W. RICHMOND.
 His Honor,
 The Superintendent,
 Wellington.

Council Paper.



CONTINUATION OF CORRESPONDENCE BETWEEN THE PROVINCIAL AND GENERAL GOVERNMENTS, RELATIVE TO NATIVE LANDS —LAID ON THE TABLE OF THE PROVINCIAL COUNCIL.

(Nos. 57-45. 57-53. 57-54.)
*Superintendent's Office,
Wellington, 28th February, 1857.*

SIR,—

I have the honor to enclose three letters from the Chief Land Commissioner.

I have, &c.,

(Signed.) I. E. FEATHERSTON,
Superintendent.

The Honorable
The Colonial Secretary,
Auckland.

(No. 57-45.)
*Chief Land Commissioner's Office.
19th February, 1857,*

SIR,—

I have the honor to request that you will obtain for me information from Mr. M'Lean relative to a purchase from the Natives in the Wairarapa District, in this Province, alleged to have been made by him, but of which I am unable to discover any trace in the documents in this office.

The land in question adjoins, or rather is within the limits of Mr. Bidwill's Run, and a part if not the whole of it, has been occupied for many years by a settler named Jury, who resided among the natives in the district long before it was occupied by the Colonists, and who now claims home-stead rights on the same footing as other

parties who occupied lands belonging to the natives, at the time when the district was purchased from the Natives.

The alleged purchase is stated to have been one of the last effected by Mr. M'Lean.

The information I wish for is, whether such purchase *was* made—whether it is so complete as to enable the Provincial Government safely to deal with the land—what are its boundaries and contents, and what Mr. M'Lean understood from the natives to be Mr. Jury's right under the natives in respect of it.

I have the honor, &c.,

(Signed) Wm. Fox,
Chief Land Commissioner.

Honble. E. W. STAFFORD, Esq.,
&c., &c., &c.,
Colonial Secretary.

(No. 57-53.)
*Chief Land Commissioner's Office.
22nd February, 1857.*

SIR,—

I have the honor to request that you will obtain from Mr. M'Lean for the guidance of the Provincial Government information relative to a disputed claim, raised by a Native Chief, in reference to a Reserve of Bush, alleged to have been made in his favour in the Wairarapa Val-

ley. The district is the Taratahi Plain. No reserve of the bush in question is made in the purchase deed of the district, of which a copy is in this office. The district has been proclaimed open for sale for nearly three years, and a "Small Farm Association," acting in unison with the Local Government—has surveyed and sold several thousand acres in it. Mr. Perry purchased an allotment from the Association, valuable chiefly on account of the bush upon it, but upon attempting to take possession, was informed by a Native Chief (Natuiri) that the bush was a Reserve in his behalf—or had never been sold, and that if he ventured to occupy the land, he would pull down his house and destroy his fence. In consequence of these threats, Mr. Perry has for many months been deterred from occupying, wasting his means in living in a friend's house, in the neighbourhood, with nothing to do except meditate claims to compensation against the Government. When lately in the District, I endeavoured to ascertain the merits of the case, and persuaded Mr. Perry to test the sincerity of the native threats, by going on to the land and commencing operations. He has done so, and the Chief is now again threatening to destroy his property. The natives themselves seem to differ in their opinion as to the merits of his claim, which is one which can only be set at rest by Mr. M'Lean, who is alleged to be cognizant of it.

I have therefore the honor to request that you will obtain for me, such information from Mr. M'Lean as he may be able to give, and that he may be instructed to write to Natuiri, to induce him to abstain from violence, at all events till Mr. M'Lean can be spared by the General Government to visit this Province.

I may take occasion to observe, that in cases such as this, the natives always refer to Mr. M'Lean's personal knowledge of the transaction, and that I believe, it would be of very little avail for any other Commissioner to attempt the settlement of such disputes.

I have the honor,

&c., &c.,

(Signed) WILLIAM FOX,
Chief Land Commissioner.

Honble. E. W. STAFFORD, Esq.,
&c., &c., &c.,
Colonial Secretary.

(No. 57-54.)

Chief Land Commissioner's Office,
Wellington, 26th February, 1857.

SIR,—

I have the honor to enclose a correspondence between certain Natives and Mr. Park, the Chief Surveyor of this Province, in the former of which you will perceive, a threat is made to eject a settler from a Run which he holds under a license from the Government, on a plea that payment was not made by Mr. M'Lean to the rightful owners. I have been unable to give any other reply to this threat than that contained in the letter signed by Mr. Park, that his Excellency had promised that Mr. M'Lean should come to settle disputes between the Natives and Europeans, and suggesting that they should exercise patience till such time as he may arrive. Mr. Smith (the occupier of the Run) is naturally uneasy at these threats, and the bad effect of them on the minds of intending settlers and new immigrants as indicating what they conceive to be unfriendly relations between the races, it is not easy to over-estimate. Whether the statement made by the natives, that they were not properly paid by Mr. M'Lean, be correct, I cannot of course say, although I am informed that the transaction was a very hasty one, and it is not therefore improbable. If the case be as stated, it is one among others, which proves the imperfect manner in which purchases have been made from the natives, and the necessity of Mr. M'Lean being engaged as early as possible in completing the unfinished transactions referred to.

My present object in addressing you, is to request that Mr. M'Lean may be instructed immediately to write to the Natives in question, cautioning them against the act they contemplate, and endeavouring if possible, to prevent its occurrence.

I have the honor, &c.,

(Signed.) WILLIAM FOX,
Chief Land Commissioner.
Honble. E. W. STAFFORD, Esq.,
Colonial Secretary.

ENCLOSURES to No. 57-54.

(A true translation.)

Signed, W. BULLER, Native Interpreter.

12th January, 1857.

To MR. PARK.—FRIEND,—

Salutation to you. We have a matter to lay before you.—listen. It refers to the Pakeha who resides on our land. We are anxious to eject him. Our reason is that we have received no portion of the payment accruing from this land. Ngairo and others obtained it, unknown to us.

and took it with them to Wellington. We have not received a fraction of it. Hence our reason for ejecting the Pakeha (te Mete). Had we received a portion of the consideration money, we should have been satisfied.

Friend Park, we leave it for you to decide. Write us a letter, and let us know your opinion.

The land referred to is on the other side of Wainaioru, the extreme boundary above is Kuamahanga, that below is Moteko. It embraces Totara, Ahioutaia, and Timu, and reaches Kuaomahanga.

Friend give our words due deliberation, lest this matter should remain a source of annoyance to us in time to come.

Our words are ended—Friend farewell.

These are the natives who lay claim to the said land—

Ko Natanahira, Ko Rihara
Ko Te Wenerei, Ko Hemiona,
Ko te Katine Ko Rematu,
Ko te Kimara, Ko te Iahana,
Ko Tuahu, and many others.
From Mikaera Were, of Wairarapa.

ENCLOSURE No. 57-54.

(No. 57-34.) A.

Survey Office,

Wellington, 28th January, 1857.

TO NATANAHIRA, and the rest of
the Maories:

FRIEND,—

I have received your letter about the land, for which you say you were not paid, and from which you propose to eject Smith. This is not good, because Smith is put there by the Queen's Commissioner. M'Lean bought the land of all the Natives, and the price was agreed upon. But you say that those who got the money, did not pay you a pound, or a shilling, or a penny, but took it to Wellington. This was your own fault. You knew the land was to be sold and you should have taken care to get your share of the money.

It is Ngairo and the others who have done wrong, and not Smith who pays the Queen for the land. Do not therefore disturb him. If you are not satisfied, wait till M'Lean comes. The Governor has promised to send him to settle the differences between the Natives and the Pakeha—so wait, and in the meantime do not trouble Smith. He will not hurt the land nor hurt you. So wait till M'Lean come.

Friend, Farewell,

(Signed) ROBERT PARK.

(57-63, 57-64, 57-65.)

Superintendent's Office.
Wellington, 6th March, 1857.

SIR,—

I have the honor to forward to you three letters addressed to me by the Chief Land Commissioner, requesting you to obtain information from Mr. M'Lean relative to questions of Native reserves, of which there is no information in this office.

I beg to call your attention to the fact that difficulties of this sort in reference to the purchases effected by Mr. M'Lean are of almost daily occurrence, and very seriously impede the sale of lands and the operations of the settlers.

I have the honor to be &c.,

(SD.)

I. E. FEATHERSTON,
Superintendent.

(57-63.)

Chief Land Commissioner's Office,
Wellington, 6th March, 1857.

SIR,—

I have the honor to request you to obtain from Mr. M'Lean information on the following matter:—

A District was purchased by that gentleman on the Tauherenikau river in the valley of the Wairarapa in September 1853, and several Blocks of land have since been sold in it by the late Commissioner Mr. Bell. The sale was accompanied by a Memorandum in each case signed by that gentleman stating that he had "been informed by the Natives that there was a Reserve for them of 100 acres in the District the boundaries of which had not been furnished by Mr. M'Lean, and that in consequence all Selections there must be subject to the boundaries of such Reserve, when they shall be finally determined.

Mr. Hayward, the purchaser of 350 acres of the Land affected by this Claim, is anxious to cultivate, and to lay out a large sum of money in the erection of a Flour and Saw Mill, which are very much wanted in the District; but he dare not commence operations till the Reserve is defined lest his improvements should be included in it. On referring to the Purchase Deed of the District, I find no Reserve mentioned, but these transactions have been of so very loose a character and so much is said to turn on promises of Mr. M'Lean's that the terms of the Deed are no guarantee for the facts.

Your early attention will oblige, as the interests of the purchaser and the Dis-

district are seriously interfered with for want of the information requested.

I have the honor,

&c., &c.,

(Signed) WILLIAM FOX,
Chief Land Commissioner.

Honble E. W. STAFFORD, Esq.,
Colonial Secretary,
&c., &c.

(57-64.)

*Chief Land Commissioner's Office,
Wellington, 6th March, 1857.*

SIR—

I shall be obliged by your obtaining for me information from Mr. McLean relative to the following matter:—

Mr. Catchpool, a purchaser of Land under the New Zealand Company, selected three Sections in the Wai-Nui-o-mata near the Town of Wellington. In completing the purchase of the District as Mr. Catchpool is informed, Sir George Grey reserved one of these sections for the Natives, but it seems uncertain whether it was finally included in their Reserve or not. After correspondence between Mr. Catchpool and Mr. Bell (the late Land Commissioner) the latter referred the matter personally to Mr. McLean in Auckland whose reply was that "he could not speak with certainty, but would take evidence from the Natives concerned." The memorandum by Mr. Bell to this effect is dated—24th December 1855. In December, 1855, Mr Catchpool applied to His Excellency Governor Browne on the subject, and was informed in reply from His Excellency's Private Secretary that His Excellency "would cause immediate enquiry to be made into the subject, and inform Mr. Catchpool of the result without delay." Mr. Catchpool is desirous of retaining the Section if possible, but in case it should prove to have been reserved, he wishes to select elsewhere as early as possible—as by the lapse of time he both loses the opportunity of selecting lands he might wish for, and also the interest of his purchase money, and the use of the Land.

I shall be obliged by your ascertaining—whether Mr. McLean has taken the evidence, as he promised in 1855, and with what result.

I have the honor, &c.,

(Signed) WILLIAM FOX,
Chief Land Commissioner.

Honble. E. W. STAFFORD, Esq.,
Colonial Secretary.

(No. 57-66.)

*Chief Land Commissioner's Office,
Wellington, 6th March, 1857.*

SIR,—It appears from the enclosed

letter from Mr. McLean to Mr. Bell, the late Land Commissioner, that the former received from Te Manihera, a Chief in the Wairarapa, the sum of £320 for 640 acres of land intended to be purchased by him in the District from the Crown.

No other record of the transaction exists in this Office, except a letter from Mr. Bell to the Colonial Secretary reporting the transaction, and I am desirous of information as to the boundaries and position of the intended purchase, there being down to this time no registered application for the purchase, either in Mr. McLean's or Te Manihera's name.

The more correct method of transacting the matter would have been for Te Manihera to have made the purchase, and paid in the money to the late Commissioner, in which case, no doubt, particulars would have been registered, and Mr. McLean might then have been accommodated with the amount by way of advance from Mr. Bell, without mixing up the two transactions. As it is, the Government may have sold the land which Te Manihera desired to purchase, having no clue whatever to the subject.

I have the honor,

&c., &c.,

(Signed) WILLIAM FOX.

Chief Land Commissioner.
Honble. E. W. STAFFORD, Esq.,
Colonial Secretary,
&c., &c.

Superintendent's Office,

Wellington, 27th April, 1857.

SIR,—I beg to forward for your information and guidance, the originals of three Despatches from the Colonial Secretary, as quoted in the margin,* and shall be glad to have them returned at your early convenience.

I have the honor to be,

&c., &c.,

JOHN KNOWLES.

To the Chief Land Commissioner,
Wellington.

(57-312.)

*Colonial Secretary's Office,
Auckland, March 31st, 1857,*

SIR,—I have the honor to state that your letters of the 28th February, and the 6th Instant, with Enclosures from the Chief Land Commissioner of the Province of Wellington, relative to questions

*103—17th Feb. 174—26th March. —31st. March.

[NOTE.—The Despatch of 31st March, is the only one relating to this Correspondence.—L.E.F.]

of Native Reserves, and purchases of lands from the Natives in that Province, having been referred to the Chief Land Purchase Commissioner, the accompanying Memoranda in respect to them have been furnished by that Officer, who is further about personally to investigate and dispose of these and other questions in dispute, or unsettled, in reference to purchases of Lands in the Wellington Province.

As Mr. McLean proposes to start for Hawke's Bay and the Wairarapa on the 13th proximo, I trust that any impediments at present existing to the occupation of any lands hitherto acquired from the Natives in these Districts may speedily be removed, and the peaceful and profitable settlement of that portion of the Colony facilitated accordingly.

In the meantime the Sub Treasurer at Wellington has been authorised to pay the sum of Three hundred and Twenty pounds, (£320.) to the Commissioner of Crown Lands there in order that Manihera's claim may be duly registered.

As the Department of Native Affairs is under the direction of the Colonial Treasurer, may I request, with a view to the Correspondence on these subjects being recorded together, that your Honor's Communications on Native questions may be addressed to that Officer.

I have the honor to be,

Sir,

Your Honor's most obedient servant,

E. W. STAFFORD.

His Honor

The Superintendent, Wellington.

ENCLOSURES IN 57-312.

(Copy.)

(Referring to letter of 19th Feb., No. 45.)

MEMORANDUM.—A preliminary arrangement has been made with the Natives for the purchase of Mr. Jury's homestead; but the question has not been so far settled as to induce me to recommend its being handed over to the Provincial Government.

(Signed) DONALD McLEAN.
30th March, 1857.

(Copy.)

(Referring to letter of 22nd Feb., No. 53.)

MEMORANDUM.—This dispute originated as follows:—The Native Chief Ngatuere sold the land in question, reserving, by a clause in the Deed of Sale, the Taratahi bush now in dispute.

Te Manihere, on hearing that Ngatuere had sold this land, determined to sell the whole of the Taratahi plains, including the bush in question; to which

he proved he had a better claim than Ngatuere.

Anticipating, however, that there would be some dispute with Ngatuere, I estimated that a sum of £400 might be required to complete the purchase; and pointed out in page 15 of the "Return to an Address of the House of Representatives, of the 25th April, 1856;" Province of Wellington, Wairarapa District; that "the payment of the balance, if any, for this block, depends upon the settlement of disputes among the Natives,—size of reserve, and other matters to be hereafter adjusted." Mr. Fox might be referred to this statement. In the mean time, I have written to Ngatuere, and shall arrange the question in dispute, when I visit Wairarapa.

A preliminary arrangement was made to acquire the land occupied by Mr. Jury as a homestead. The Natives were desirous that a certain portion of land should be secured to him; but the question was not sufficiently settled before I left Wellington to enable me to recommend that this land should be handed over to the provincial authorities.

(Signed.) DONALD McLEAN.
30th March, 1857.

(Copy.)

(Referring to letter of 26th Feb., 1857.)

MEMORANDUM.—A letter has been addressed to the Natives, advising them not to interfere with the occupant of the disputed land referred to in this letter.

The land was purchased from the rightful owners; but, having no surveyor at disposal to mark off the boundaries of the purchase, it is very probable that Mr. Smith's run may include land that has not been purchased; and more likely that he is on land that has not been proclaimed as open for sale or selection.

The question in dispute may now, however, be very soon decided; as I shall make enquiries into it when I go to Wellington.

(Signed) DONALD McLEAN.
30th March, 1857.

(Copy.)

Referring to letter of 6th March, No. 63.)

MEMORANDUM.—If the Superintendent at Wellington will again take the trouble of looking at the Deed of Sale executed on the 23rd December, 1853,—he will find the following clause:—

"One hundred acres of this land are for Rawiri Piharau at Motupiri."

I instructed Capt. Smith to mark off this reserve; he was called away to some other duty without my knowledge. The

Natives are prepared to point out the position of the reserve at Motupiri, whenever the Government Surveyor is sent to perform this duty.

(Signed.) DONALD McLEAN.
30th March, 1857.

(Copy.)

Referring to letter of 6th March, No 64.

MEMORANDUM.—I am not in possession of any information on this subject.

(Signed.) DONALD McLEAN.
30th March, 1857.

(Copy.)

(Referring to letter of 6th March, No. 66.)

MEMORANDUM.—The land is situated in the Wharekaka plains, adjoining the inland boundary of Manihera's reserve of 1000 acres; and extends inland from that boundary, which is near the Dry river, to the Pahangina stream.

The boundaries are well known to Capt. Smith, who was entrusted with laying off the Section, previous to his leaving the service of the General Government. This, however, has not been done.

I submit that it may be desirable to ask the Sub Treasurer at Wellington to pay the sum of £320 to the Commissioner of Crown Lands at Wellington, in order that the claim on behalf of Te Manihera may be duly registered.

(Signed.) DONALD McLEAN.
March 30th, 1857.

ENCLOSURE TO 57-66.

*Chief Commissioner's Office,
Wellington, January 23rd. 1856.*

SIR,—I have the honor to acquaint you that the Native Chief Te Manihera has paid me out of instalments due for Wairarapa this month, a sum of Three hundred and Twenty pounds (£320) for his purchase of Six hundred and Forty (640) acres in the Wharekaka plains.

It would facilitate negotiations in which I am now engaged with the Natives, if you could allow me to retain this sum as a temporary loan for land purchases,—holding me for the future, instead of Te Manihera, responsible for the payment of it as agreed between us to day.

I have the honor, &c., &c., &c.

(Signed.) DONALD McLEAN,
Chief Commissioner,

F. D. Bell, Esq.,
Commissioner of Crown Lands,
Wellington.

(57-117.)

*Chief Land Commissioner's Office,
20th May, 1857.*

His Honor
The Superintendent
of the Province of Wellington,
SIR,—

I have the honor to acknowledge the receipt of a copy of the letter of the Colonial Secretary to yourself, dated 31st March, 1857, in reply to one from yourself—covering several enclosures addressed to your Honor by me—relative to difficulties existing in the way of ascertaining Boundaries, Reserves, &c., in the purchases made by Mr. McLean from the Natives in the Wairarapa and East Coast. The Letter of the Colonial Secretary also covers several memoranda written by Mr. McLean, and I presume intended as replies to the statements contained in my letters above referred to.

I. As regards the Memorandum relating to Ngatuiru, there certainly is little in the references made by Mr. McLean to his "estimates for incomplete purchases," and to a note in a document laid before the General Assembly, to enable me to ascertain the merits of Ngatuiru's Claim, nor even to suggest the existence of it—and the fact that the Block of land in reference to which it exists was handed over to the Land Commissioner here for sale and sold by him without a hint of any latent Claims or disputes, is in no way explained by Mr. McLean's Memorandum. It does seem that very little care would have provided against the inconveniences which have arisen in this and other similar cases. If a succinct statement had been furnished to the Land Commissioner here of the position of the Purchased lands as regards disputed Reserves, incomplete Boundaries and payments &c., instead of leaving him to expiscate such matters from not very intelligible Deeds, and references to obscure documents in Blue Books of the General Assembly, much trouble and annoyance would have been saved; and such a course would certainly have been consistent with the Official usages of any well conducted Official Department. As I have before stated all the Documents illustrative of the subject which were to be found in this Office when I took charge of it, were one or two Sketch Maps, and Deeds for about half the purchases—unaccompanied by any sort of explanation or collateral information.

II. Some blame appears to be incidentally attributed by Mr. McLean to Captain Smith for not having surveyed Manihera's purchase on the Wharekaka.

In justice to that Officer I must observe that he would have acted very wrongly if he had surveyed it before it was paid for to the Land Commissioner. Why it was not—why the money paid by Manihera was allowed to remain so long in the hands of another Department, and why the transaction was only put in its proper form on my calling attention to it in one of my late letters to your Honor, it is no business of mine to enquire.

III. The case of Mr. Smith being threatened by certain Natives with ejection from his Run on the ground that Mr. M'Lean paid the wrong Natives, Mr. M'Lean replies that the land was purchased from the rightful owners. This is an evasion of the point (no doubt unintentional on the part of Mr. M'Lean.) The allegation was not that the purchase was made from the wrong parties, but that payment was made to the wrong parties, and the disturbing Natives declare that though entitled to a large part of the payment they never received any. It is a case similar to another on the East Coast, that of the Tautani Block. It has now, I am sorry to say, assumed a very serious aspect, the dissatisfied Natives—(whether they have received Mr. M'Lean's promised letter I cannot say), have actually driven off one licensed Run-holder from a part of his Run—taken possession of his house, and threatened, if not by this time ejected another. I enclose a copy of a letter addressed to Mr Beetham by his son stating the facts. Surely it is time that the Province were relieved from such injuries—injuries which arise in no way from any negligence on the part of the Provincial Authorities, but which they are prohibited from repressing; while those entrusted with the management of the Natives content themselves with writing ineffective letters to the Natives and promising visits at some future and undefined period.

I have the honor to request that you will forward the particulars of Mr. Beetham's case to the General Government at your Honor's early convenience.

I have the honor,
&c., &c., &c.,

(Signed) WILLIAM FOX,
Chief Land Commissioner.

ENCLOSURE TO 52-117.

Nicols' Whare,
April 25th 1856.

* * *

I take the opportunity of sending a

letter by Burton who starts for Town tomorrow.

We were very much astonished on Wednesday last by a visit from four Maories, Piripi, Matihaha, Tamiti Wiremu, and another Maori. They came up to the whare in a state of frantic excitement, declaring that it was built on their land. They brandished their weapons and struck the whare with them, threatening to burn it over our heads. We, however, resorted to pacific measures, and they cooled down a little. They explained to us the nature of their claims which are as follows:—They claim all the land between the Whare totara (Turugain), and the Takahaka, and from those creeks to the Wainui Oru. I enclose a rough map. Old Habukha seems to be mixed up with this affair in some way or other. We imagine from what they said that Habukha, the Chief, had been paid the money by the Commissioner for the land which did not belong to him.

I went over to Moore's the next day with the Maories and acquainted him with the state of affairs—he writes to his brother in Town by Burton, and advises us not to offer any opposition to the Maories if they attempt to burn the whare. They, while there, made themselves quite at home, and said that they considered it theirs. They have left one Maori in the whare, and I went over to Moore's with the rest. Returning from Moore's the next day, I called at Eh Priam, a Maori Pa. The three Maories were there on their way to Moore's, and holding a very animated conference,

The sheep are quite quiet. We have killed six dogs, and with the exception of this affair, every thing seems to be going on very fairly.

I suppose you will see Mr. G. Moore on this subject, and also Mr. Fox. We, of course, shall not proceed with the stock-yard, as it would be built on the ground they claim. The bullock is here and I take a pack into the run with me.

* * *
(Signed.) RICHMOND BEETHAM.

We shall offer no opposition to the Maories unless they proceed to personal violence.

(Signed.) R. B.

True Copies.

DAVID LEWIS, Chief Clerk,

Chief Land Commissioner's Office,
Wellington.

