



NEW ZEALAND

# GOVERNMENT GAZETTE.

PROVINCE OF CANTERBURY.

Published by Authority.

*All Public Notifications which appear in this Gazette, with any Official signature, are to be considered as Official Communications made to those persons to whom they may relate, and are to be obeyed accordingly.*

By His Honor's command,

RICHARD PACKER,

Provincial Secretary.

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VOL. IV.] SATURDAY, SEPTEMBER 26, 1857. [No. XXVI.

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*Provincial Secretary's Office,  
Christchurch, Sept. 19, 1857.*

**H**IS Honor the Superintendent of Canterbury directs the following memorandum to be published for public information :

A difference of opinion has arisen between the Provincial Governments of Canterbury and Otago as to the boundary line between the two Provinces. Sir George Grey fixed this boundary by a Proclamation dated the 28th day of February, 1853, in the following words :

"The Province of Canterbury shall be bounded \* \* \* \* on the south by the river Waitangi to its source, thence by a right line running to the source of the river Awarua, thence to the river Awarua to its mouth \* \* \* \*"

"The Province of Otago shall be bounded on the north by the southern boundary of the Province of Canterbury, as already described in this Proclamation."

The river Waitangi having several branches, all bearing different native names, and the direction of the upper waters being unknown, an ambiguity in the meaning of the Proclamation would have existed had it not been accompanied by a map, annexed to, and

made a part of it. This map marks out the branch running nearly east and west, and the head waters of which are nearest to the head waters of the Awarua river, as the branch intended in the Proclamation, the boundary between the Provinces mostly running in nearly a direct line across the island from east to west.

The Superintendent of the Province of Otago, neglecting the map attached to the Proclamation, claims as a part of the Province of Otago all the land south of the *north branch* of the Waitangi ; by which claim the boundary line would appear on the map as running first westerly, then for at least 70 miles northerly, an equal distance southerly to the Awarua river.

The Superintendent of Canterbury has applied to the General Government, and has been assured that the matter will be made the subject of legislation at the approaching Session of the General Assembly.

In the mean time, notice is given, that all persons, not holding licenses from the Waste Lands' Board of the Province of Canterbury, occupying land lying north of the west branch of

the Waitangi river, as indicated by the Proclamation and map attached, will be treated as unlicensed squatters, and proceeded against according to law.

By order of his Honor the Superintendent,

R. PACKER,  
Provincial Secretary.

*Provincial Secretary's Office,  
Christchurch, Sept. 23, 1857.*

HIS Honor the Superintendent directs the publication of the following correspondence for general information.

R. PACKER,  
Provincial Secretary.

*Superintendent's Office,  
Christchurch, January 2, 1857.*

SIR,—

I beg to bring under your Honor's notice that certain persons have settled on the north side of the Waitangi river, who represent, as I am informed, that they have taken runs from the Land Commissioner of Otago. And I have been informed, though not upon any official authority, that the gentlemen in the Land Office at Otago regard the northern branch of the river Waitangi as the boundary between the Province of Canterbury and Otago.

I am, however, at a loss to comprehend this, because not only does the northern branch of that river bear another name, but the map officially annexed to, and forming part of the Proclamation by which the Provinces are defined, plainly points out that the branch of the river running westerly [and in a direction towards the] Awarua river, is the boundary line between Canterbury and Otago.

I shall be much obliged if your Honor will cause immediate enquiry to be made into this matter, as otherwise the same country will be let to persons applying to the Land Offices of the two Provinces.

I have the honor, &c.

(Signed)

JAMES EDWARD FITZ GERALD,  
Superintendent of Canterbury.

P. S. I have the honor to enclose a fac-simile tracing of the map attached to the Proclamation.

His honor the Superintendent  
of Otago.

*Superintendent's Office,  
Dunedin, April 4, 1857.*

SIR,—

Your Honor's letter on the subject of the boundary line between the Pro-

vinces of Otago and Canterbury having been referred to the Waste Land Board of this Province, I have the honor to annex a copy of their Report.

I have the honor to be, Sir,

Your most obedient servant,

W. CARGILL,  
Superintendent.

His Honor the Superintendent,  
Canterbury.

[ENCLOSURE.]

*Waste Land Board Office,  
Otago, April 2, 1857.*

SIR,—I am directed by the Waste Land Board to inform your Honor, in reply to your letter of the 17th ult., enclosing copy of a letter from His Honor the Superintendent of Canterbury, regarding the boundary line between the two Provinces, that the Board is not aware of having leased Runs to the north of the river Waitangi; and with regard to the boundary of the Provinces, respectfully to direct your Honor's attention to the description of the boundary line referred to, as given in the Governor's Proclamation dated Wellington, Feb. 28, 1853, fixing the limits of the several Provinces. The map or sketch which accompanied the Proclamation was that of a wild and untraversed country, and although perhaps the best procurable at the time, cannot of course be relied upon for the definition and fixing of the boundary line in question. The description, however, of the boundary line, as given in the Proclamation, is in itself, it is presumed, sufficient to determine the point at issue.

I have the honor to be, &c.

(Signed) P. PROUDFOOT,  
Chief Commissioner.

His Honor the Superintendent  
of Otago.

*Superintendent's Office,  
Christchurch, 20th April, 1857.*

SIR,—I beg to acknowledge the receipt of your Honor's letter of the 4th instant, enclosing a report from the Waste Lands Board, on the subject of the boundary line between the Provinces of Canterbury and Otago.

Your Honor will allow me to express some surprise that the Government of Otago has avoided expressing any opinion on so important a question, involving as it will do shortly, property to a very large amount. The Governor's proclamation does not, as the Waste Lands' Board of Otago presumes, afford

any guide for the settlement of the question. It simply states the boundary to be "the Waitangi River," but it is more than probable that the several branches of that river have different native names, and that none of the branches bear the name of "the Waitangi." It was to settle the doubt thus arising that the map was added. Nor is the map one of a wild and untraversed country, *so far as the settlement of this question is concerned*. The branches of the Waitangi, so far as the question at issue is concerned, were then, as now, well known, namely, that there is one large branch running northward towards Mount Cook, and another westward towards the Awarua river on the West Coast. The map indicates that the *westward*—not the *northward* branch is the boundary contemplated, and the object of my letter was to request that your Honor would instruct the Waste Lands Board of Otago not to let or sell lands to the northward of that branch of the river, because until there is a clear understanding on the matter, purchasers or squatters will be liable to be dispossessed by purchasers or squatters taking such land or runs under the Waste Lands Board of the Province of Canterbury, or to be subject to a very costly and unpleasant litigation.

Considering that two very different modes of disposing of the Waste Lands are in force in the two Provinces, it seems most desirable that this question should be set at rest as speedily as possible, and I shall be happy to send a surveyor to the Waitangi to meet a surveyor sent by your Honor to report on the boundary, as settled by the Proclamation and map, if your Honor will give me sufficient notice (say two months at least) of the time when the surveyors can meet.

In order that the public may be fully informed of the state of this question I think it will be desirable to publish this correspondence in the Government Gazette, and I should be obliged if your Honor would give it equal publicity.

I have the honor, &c.,  
(Signed)

JAMES EDWARD FITZ GERALD,  
Superintendent of Canterbury.

To His Honor  
the Superintendent  
of Otago.  
&c., &c., &c.

*Superintendent's Office,  
Dunedin, 11th May, 1857.*

SIR,—With reference to your Honor's letter of the 20th ult., on the subject of the boundary line between this Province and Canterbury, I have the honor to enclose a tracing of the same, as made up by our Chief Surveyor from the Governor's Proclamation, and the map that accompanied it, which map appears to be the same as that of which you sent me a tracing.

In the event of your surveyor dissenting in any degree from the line that has been adopted here, I shall be happy to arrange for a meeting of both surveyors on the spot, in order to mutual adjustment on the earliest practicable date, and which on enquiry I find will be about six months hence.

Meanwhile, in holding to the map of our Chief Surveyor, we shall, on hearing from you, act with due caution as regards any points you may possibly dissent from, and in the belief that your Government will do the same.

I have, &c.,

(Signed) W. CARGILL.

Superintendent.

His Honor the Superintendent  
of Canterbury.

*Superintendent's Office,  
Christchurch, 6th June, 1857.*

SIR,—I have the honor to acknowledge the receipt of your Honor's despatch of the 14th May, on the subject of the boundary line between the Provinces of Canterbury and Otago, together with the enclosed tracing. I can only in reply, request your Honor to abstain from occupying the country in dispute, and add that I cannot allow six months to elapse before a final settlement is made.

I see no way of settling the question but by bringing it in the form of a Declaratory Act before the next General Assembly.

It is only sufficient to lay down the tracing you have done me the honor to send upon Sir George Grey's map to show that the boundary you claim is not that intended by the Proclamation, and I may add that the Natives name of the river marked out in your Honor's map, is not, as I have been informed, Waitangi.

I have the honor, &c.,

(Signed) J. E. FITZ GERALD,  
Superintendent.

His Honor the Superintendent  
of Otago.

*Superintendent's Office,  
Dunedin, June 23, 1857*

SIR,—Referring your Honor to my letter of the 14th ult. (a copy of which is herewith enclosed) on the subject of the boundary line between the Provinces of Otago and Canterbury, I have the honor to hand you a copy of a Report made to me by Mr. Proudfoot, Chief Commissioner of Waste Lands in Otago, to the effect that licenses for Runs on the Otago side of the Waitangi are intimated to him to have been issued in the Province of Canterbury, and also a copy of the Notice and other steps that have been taken thereon by the Waste Lands Board of this Province, and to all which I have respectfully to request the attention of your Honor.

I have the honor to be, Sir,  
Your most obedient servant,  
W. CARGILL.

Superintendent.

His Honor the Superintendent  
of Canterbury.  
(Copy of letter of May 14th enclosed.)

[ENCLOSURE.]  
*Waste Land Board,  
Otago, June 11, 1857.*

His Honor the Superintendent,  
Otago.

SIR,—

Referring to the correspondence transmitted to this office between your Honor and his Honor the Superintendent of Canterbury, on the subject of the boundary line between this Province and that of Canterbury, I have now to inform your Honor that an intimation (obtained from a gentleman who lately visited the District,) has this day reached me to the effect that parties having licenses for runs from the Canterbury Land Office have taken possession of the country south of the river Waitangi, which country this Board (Otago,) holds as belonging to this Province.

I should be happy to receive your Honor's instructions as to how I am to act in this matter. I have, &c.,

(Signed) PETER PROUDFOOT,  
Chief Commissioner.

Chief Commissioner of the Waste  
Lands Board, to his Honor  
the Superintendent of Otago.  
*Waste Land Board Office,  
Otago, June 11th, 1857.*

To his Honor the Superintendent,  
Otago.

SIR,—

I beg to forward for your Honor information copy of a letter, with enclosure, which I have this day addressed to the Waste Land Board for the Province of Canterbury.

I have, &c.,

(Signed)

PETER PROUDFOOT,  
Chief Commissioner.

[Enclosure above referred to.]  
*Waste Land Board Office,  
Otago, June 11, 1857.*

To the Waste Lands Board,  
for the Province of  
Canterbury.

GENTLEMEN,—I have the honor to enclose for your information and guidance copy of a notice, issued by me of this date, on the subject of the illegal occupation by parties of land belonging to this Province, southward of the river Waitangi.

I have, &c.,

(Signed)

PETER PROUDFOOT,  
Chief Commissioner.

NOTICE:

WHEREAS information has been received at this office that certain parties are occupying land south of the river Waitangi, or boundary under-noted, without the permission of the Waste Land Board of this Province.

Intimation is hereby given to all parties so occupying, or intending to occupy, lands southward of the river Waitangi, and boundary under-noted, that the occupation of such country is illegal, unless sanctioned by the Waste Land Board of this Province, and that parties persisting in any such illegal occupation after this notice will be proceeded against in manner provided by law.

(Signed)

PETER PROUDFOOT,  
Chief Commissioner.

Waste Lands Board Office,  
Otago, June 11th, 1857.

The boundary referred to in the foregoing notice, being the northern boundary of the Province of Otago, is described in his Excellency, Sir George Grey's Proclamation, dated 28th of February, 1853, fixing the boundaries and limits of the respective Provinces as follows—

“By the river Waitangi to its source, thence by a right line running to

the source of the river Awarua, thence by the river Awarua to its mouth."

(Signed)

P. PROUDFOOT,  
Chief Commissioner.

*Superintendent's Office,  
Dunedin, Aug. 28, 1857.*

SIR,—I do myself the honor to acknowledge the receipt of your letter of the 6th June last; and in reply, to annex a copy of the decision of the Waste Land Board of Otago on the subject of that letter.

In doing so, I may observe that I cannot concur in the conclusion to which you seem to have come with regard to the boundary of the respective Provinces. The river Waitangi being the admitted boundary, all its branches are of course included, and the map sent by me corresponds with this view of the matter. Besides, your one-sided proposition that the Waste Land Board of this Province should refrain from disposing of the disputed territory, whilst you did not assure me that the same forbearance would be exercised on the part of the Province of Canterbury, could not be listened to.

I beg to add, however, that our chief Surveyor will be at the Waitangi river on the 1st of November next, and be prepared to meet and confer with the surveyor of your Province on all such points of the boundary line as may be found desirable.

I have the honor to be, Sir,

Your most obedient servant,

W. CARGILL, Superintendent.

His Honor the Superintendent  
of Canterbury.

*Waste Land Board Office,  
Otago, 25th July, 1857.*

SIR,—I have to acknowledge the receipt of your Honor's letter of the 22nd instant with enclosure, and to inform you that the Board, having considered the same, has directed that depasturing licenses shall be granted in the usual form and manner to all parties who may apply for the same. The country applied for being southward of the river Waitangi.

I have, &c.,

(Signed)

PETER PROUDFOOT,  
Chief Commissioner.

His Honor the Superinten-  
dent, Otago.

*Superintendent's Office,  
Christchurch, September 22, 1857.*

SIR,—I beg to acknowledge the receipt

of your Honor's letter of the 28th August, on the subject of the boundary line, between the Provinces of Canterbury and Otago.

I now for the first time in the course of this correspondence obtain some insight into the grounds of the extraordinary claim set up by the Provincial Government of Otago. Your Honor is pleased to say, the river Waitangi being the admitted boundary, "all its branches are of course included." This I take to be the grounds of the claim of Otago.

The Government of Canterbury has been inclined to take an honorable and equitable view of the intent and meaning of the Proclamation issued by Sir George Grey, as explained by the map which is sealed with the Public Seal to the Proclamation, and therefore forms a part of it.

But if, departing from this mode of dealing with the question, the Government of Canterbury were disposed to adopt a strictly legal and technical interpretation of that document, looking not to its obvious intent, but to the utmost amount of advantage which could be obtained from it by a forced interpretation of its language, we should at once adopt the line of argument which has been suggested by your Honor's despatch, now under reply, for referring to the words of the Proclamation, I find that the northern boundary of the Province of Otago, is simply defined to be, "the southern boundary of the Province of Canterbury," whilst the southern boundary of the Province of Canterbury is defined to be the river Waitangi, to its source; adopting the interpretation of your Honor's Government, the southern boundary of Canterbury is the river Waitangi, "in which all its branches are of course included," and therefore the southernmost branch, your Honor's own interpretation thereof, will, instead of transferring a very large portion of the Province of Canterbury to Otago, transfer a very large portion of the Province of Otago to Canterbury, and should the course adopted by the Government of Otago be such as to compel the Government to resort to the Supreme Court in defence of the rights of its settlers, your Honor will not be surprised if we should not longer be bound by the present interpretation, which we are willing to place on the Proclamation, but should accept whatever interpretation the Supreme Court may decide as the most strictly and technically consistent with the words of the law.

And I feel called upon, whilst on this subject, to express my astonishment that your Honor should have permitted a notice to issue from the Chief Commissioner of Otago, containing what purposes to be a quotation from Sir George Grey's Proclamation respecting the boundaries of the

Province, whilst in fact no such words are found in the Proclamation in the place in which they are quoted as coming from the notice I refer to, is dated 17th June, 1857. Your Honor sent me a copy on the 28th June, but my notice has only recently been called to this point. The words of the proclamation are

“The Province of Otago shall be bounded on the North by the Southern boundary of the Province of Canterbury as already described in this Proclamation.”

The words of the Public Notice to which I refer are as follows:—

“The boundary referred to in the foregoing notice being the Northern boundary of the Province of Otago is described in His Excellency Sir George Grey’s Proclamation of date 28th February, 1853, fixing the boundaries and limits of the respective Provinces as follows:—

“By the river Waitangi to its source,  
“thence by a right line running to  
“the source of the river Awarua,  
“thence by the river Awarua to its  
“mouth.”

The words thus quoted by Mr. Proudfoot as being the *North boundary of the Province of Otago* are in the Proclamation used to indicate the *South boundary of the Province of Canterbury*. There would be no great inaccuracy in this were it not that the change in these words from one place to the other *makes the whole difference in the point at issue*, according to your Honor’s own interpretation. I am quite sure that this misquotation of a public document in an official notification, with the view of establishing the right of the largest Province in New Zealand to additional territory at the expense of a neighbour must have escaped your Honor’s notice at the time it was issued.

I beg to thank your Honor for the intimation which you give me that the surveyor will be at the Waitangi on the first of November, and I will instruct Mr. Hewlings to meet him there on that day, or as soon thereafter as possible. I do not anticipate that any settlement of this question can be come to, and therefore Mr. Hewlings will be instructed to confine himself to making a sketch map of the various branches of the Waitangi. The General Government has requested me to furnish information on this subject, and as the matter will be finally disposed of in the next Session of the General Assembly, it is desirable that all the information possible may be at once afforded, I would therefore suggest to your Honor to instruct your surveyor to aid Mr. Hewlings in making such a rough sketch map of all the country included in the branches of the Waitangi as perfect as the time at their disposal may admit of, so that the map may be the joint work of the surveyors of the two Provinces. This, I believe, will aid more in the settlement of the question than any other course.

In the mean time I have only to call your Honor’s attention to a public notification issued by my orders, and to state that the Government of this Province is quite prepared to defend its settlers in the possession of the country which is claimed by an appeal to the Supreme Court if necessary.

I have been brought to this conclusion by perceiving, from the grounds of the claim set up by your Honor’s Government, that the matter in dispute is one which admits, so far as I can see, of no compromise.

I have the honor, &c.

J. E. FITZ GERALD, Superintendent.  
To his Honor the Superintendent  
Otago.