



THE  
**GOVERNMENT GAZETTE.**  
 PROVINCE OF HAWKE'S BAY.

Published by Authority.

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

T. H. FITZGERALD,  
 Superintendent.

VOL. I. ]

WEDNESDAY, AUGUST 10, 1859.

[ No. 5.

Superintendent's Office,  
 August 1, 1859.

\* THE Superintendent has directed the publication of the following correspondence with the Honorable the Colonial Secretary, for general information,—1st, "On the subject of applications for depasturing licenses on lands not yet acquired from the natives."—2nd, "Relative to the true interpretation of the 14th clause of the Land Regulations of 1853."—And 3rd, "In reference to the application of certain Acts of the Provincial Council of Wellington to the Province of Hawke's Bay.

G. T. FANNIN,  
 Superintendent's Clerk.

Superintendent's Office,  
 Napier, June 4, 1859.

SIR,—A doubt having arisen as to whether the Acts of the Provincial Council of Wellington, mentioned below, would apply to the Province of Hawke's Bay without being formally adopted by its Provincial Council, I have the honor to solicit your good offices to obtain the opinion of the Attorney-General on this point, more particularly as the Provincial Government have failed as yet to obtain the services of a legal adviser here. The point of difficulty is, to know whether under Section No. 4 of the New Provinces Act, the Acts mentioned below, which seem to apply principally to the Governing body of the Province of Wellington only, can it be taken as applicable to the Province of Hawke's Bay without special adoption, as other Acts of the Wellington Provincial Council of a ge-

neral nature, such as the Fencing, Impounding Acts &c., undoubtedly can.

I have the honor to be,

Sir,

Your most obdt. Servant,

(Signed) T. H. FITZGERALD.

The Hon. the Colonial  
Secretary &c., Auckland.

Sess. 1, No. 2—Interpretation Act  
Sess. 1, No. 4—Empowering Act  
Sess. 1, No. 26—Officer's and Contractor's Act.

Colonial Secretary's Office,  
Auckland, July 11, 1859.

SIR.—In reply to your Honor's letter of the 4th ultimo, requesting to know whether, in the opinion of the Attorney-General, the Acts of the Provincial Council of Wellington set forth below would apply to the Province of Hawke's Bay,—I have the honor to inform you that the Attorney-General is of opinion that the Acts in question are in force in the Province of Hawke's Bay, under the 4th Section of the New Provinces Act, 1858.

I have the honor to be,

Sir,

Your very obdt. Servant,

(Signed) HENRY JOHN TANCRED,  
For the Colonial Secretary.

His Honor the Superintendent of Hawke's Bay,  
Napier.

Sess. 1, No. 2—Interpretation Act  
Sess. 1, No. 4—Empowering Act  
Sess. 1, No. 26—Officer's and Contractor's Act.

Superintendent's Office,  
Napier, June 3, 1859.

SIR.—As it was customary whilst this Province formed a portion of the Province of Wellington, for the Sub-Commissioner of Crown Lands here to receive applications and deposits for occupation licenses to depasture stock over lands not yet acquired from the natives, or that may not be acquired for many years to come, I have the honor to submit the enclosed questions for the opinion of the Attorney-General on this subject, which if not out of order in applying for it, I would be greatly obliged by your procuring for me; as it appears to me and many others

here that great irregularity has taken place in receiving such applications at any time, and that neither the original rules and regulations for the issue of pasture licenses, or the additional Land Regulations adopted by the Provincial Council of Wellington on 15th February, 1853, warrant the adoption of such a course, or pledge the Government in future against dealing with lands so applied for, in the way that may be thought most beneficial for the interests of the public, on their becoming Crown Lands.

A great evil that has resulted from entertaining applications like those above mentioned is, that persons have been encouraged in very many cases where they are applicants for Native Lands to occupy them in defiance of the law, in hope of their being shortly after purchased by the Government, and, by such occupation have made their acquisition far more difficult and expensive than if the Commissioner of Crown Lands had steadily refused to entertain applications for licenses till the lands had become Crown Lands.

I have the honor to be,

Sir,

Your most obdt. Servant,

(Signed) T. H. FITZGERALD,  
Superintendent.

The Hon. the Colonial  
Secretary &c., Auckland.

#### QUESTIONS

For the opinion of the Attorney-General relative to applications to depasture stock on land not yet acquired from the natives:—

1st.—Is there any law, rule or regulation authorising the Commissioner of Crown Lands, to receive applications with deposits for depasturing licenses over Native Lands, or lands not actually belonging to the Crown?

2nd.—Do applicants for depasturing licenses over Native Lands acquire a right of priority over other applicants for the same lands after they have become Crown Lands?

3rd.—Can it be regarded as unjust or breaking public faith with applicants for licenses to depasture stock on native lands, if the Government should wish to apply other rules more suitable to the present requirements of the Province when they become Crown Lands. Or, in fact, ought the Government to

consider itself bound for years to come by such application made long before the land became Crown lands, because the Commissioner of Crown Lands for the Province of Wellington thought fit to receive them and take deposits for it?

(Signed) T. H. FITZGERALD.  
Napier,  
June 3, 1859.

Colonial Secretary's Office,  
Auckland, June 22, 1859.

SIR,—I have to acknowledge the receipt of your Honor's letter of the 3rd inst., submitting certain questions on the subject of applications and deposits for Occupation Licenses to depasture stock over lands not yet acquired from the natives, and I have to return to you the following replies:—

1.—There is no law, rule, or regulation authorizing the Commissioner of Crown Lands to receive applications with deposits, for depasturing licenses over Native Lands, or Lands not actually belonging to the Crown.

2.—Applicants for depasturing licenses over Native Lands do *not* acquire a right of priority over other applicants for the same lands after they have become Crown Lands.

3.—As there was no authority to receive the applications in question, it cannot be regarded as unjust to apply other rules more suitable to the present requirements of the Province when the Lands become Crown Lands.

I have the honor to be,

Sir,

Your most obdt. Servant,

(Signed) HENRY JOHN TANCRED,  
For the Colonial Secretary.

His Honor the Superintendent,  
Napier.

Superintendent's Office,  
Napier, June 6, 1859.

SIR,—I have the honor to address you on a subject of great importance to this Province, in the hope that you will be good enough to obtain from the Attorney General his opinion as to the true interpretation of 8th and 14th clauses of Sir G. Grey's Land Regulations of 1853, a necessity for which has arisen out of a correspondence between the Commissioner of Crown Lands here and the Secretary of Crown Lands—the latter having put, in a case (see enclosure No. 1) laid before him, a different construction on the 14th Clause to

that hitherto given by the Chief Land Commissioner at Wellington and whose directions had been acted on by his deputy here up to the time of separation.

From enclosure No. 1 you will observe that an application was made by a Mr. Guesdon to purchase 8000 acres of land here, which, had the Commissioner adhered to Mr. Fox's reading of the 14th clause, would have been at once accepted, inasmuch as the runholder had not thought fit to apply previously for the certificate of its being 5s. land; and it would have been impossible for the Commissioner to certify that it was not worth 10s. if it had actually been offered.

I enclose a copy of the reply given to Mr. Commissioner Tiffen by the Secretary of Crown Lands and a copy of Mr. Fox's replies to queries put to him by a Select Committee of the Provincial Council of Wellington last Session, on the reading (enclosure No. 3) of the clauses in question.

The great point to be decided is whether under the 14th clause, the Land Commissioner here is empowered to refuse in future all applications to sell land at 10s. per acre, held within the district as sheep runs, and not previously certified by him as not worth 10s. per acre, until the runholder thinks proper to apply for a 5s. certificate.

I would venture to explain here my own opinion of the meaning of the much disputed 8th and 14th Clauses, which I heard fully discussed when I was at the head of the Survey Department at Wellington at the time of their promulgation.

The 8th Clause, I believe, was intended to apply only to such 5s. land held by the Government that was not occupied as runs; whilst the 14th clause relates solely to hilly land held as runs that the runholder had obtained the Commissioner's certificate to be not worth more than 5s.; which I believe under that clause he could obtain without any necessity of paying a deposit or wishing to buy, but solely as a protection to him to prevent his being bought out without notice by persons who, not caring for it as agricultural land, would nevertheless be glad to give 10s. per acre, because they would be then in a position to bid for the sheep or cattle of the runholder at a nominal price. But I think it never was intended to shut up all lands held as runs, until the runholder was pleased to ask

for the Commissioner's certificate, after application had been made to buy it at 10s., and which the runholder is not bound by the Land Regulations to do within any given time, as Mr. Tancred's reading of the clause would seem to imply, and which if confirmed will certainly very much reduce our future prospects of Land Revenue in this Province. By ruling that the runholder who wishes for protection should make the application himself beforehand, I submit the clauses in question may be read without confusion; whilst by adhering to the other reading, all must be confusion, without adopting that part of Mr. Tancred's opinion marked A (enclosure No. 2), and which not being contained in the Land Regulations themselves, I believe cannot be legally adopted, and might be successfully disputed in the Supreme Court. Then, again, if the runholder applies beforehand for a certificate that the hilly part of his run is only worth 5s. per acre, and obtains it, all would be clear, and no person would have a right to buy him out unless by auction in the usual way. Whereas, if he does not adopt this course it is manifestly impossible for the Commissioner to give him the required certificate after 10s. per acre has been offered for it, and there would be no fair reason for putting obstructions in the way of general purchasers, as, under the additional Land Regulations adopted by the Provincial Council of Wellington, he would not be required to remove his stock until after 3 months' notice of the land having been purchased by another party was given in the "Government Gazette."

Hoping that this important subject will receive due consideration at your earliest convenience.

I have the honor to be,

Sir,

Your most obedient servant,

(Sgd.) T. H. FITZGERALD.

Colonial Secretary's Office,  
Auckland, July 12, 1859.

SIR,—I have to acknowledge the receipt of your Honor's letter of the 6th ultimo, requesting that you might be furnished with the opinion of the Honorable the Attorney General as to the true interpretation of the 8th and 14th Clauses of Sir George Grey's Land Regulations of 1853.

The question raised in your letter is

one of considerable difficulty, but the Attorney General is of opinion, after a careful consideration, that Section 14 of those Regulations is the only one of those two applicable to land held as a run.

On the application of a purchaser to purchase land it is no doubt competent for the Commissioner to certify that from its hilly and broken character, or from some other cause, "it is unavailable for agricultural purposes," and in such case it must be put up to auction, but no Commissioner, it is thought, could possibly be justified in giving a certificate—the giving of it being discretionary with him—which would have the effect of causing land to be put up at 5s. an acre, when an offer had already been made to purchase it at 10s. an acre.

The Commissioner of Crown Lands at Hawke's Bay should at once let it be fully understood that the fact of an offer to purchase any land at 10s. an acre will preclude him from giving a certificate under Section 14, and that no application will be acceded to by him for that purpose.

This course would have the effect of giving the land to the first applicant at 10s. an acre, and be in accordance with the spirit of the Regulations.

I have the honor to be,

Sir,

Your most obedient servant,

(Sgd.) HENRY JOHN TANCRED,  
for the Colonial Secretary.

Crown Land Office,  
Napier, August 2, 1859.

IT IS HEREBY NOTIFIED for general information that in all cases in future where application is made to purchase hilly land forming a part of a sufficiently stocked run at ten shillings (10s.) per acre, and where such land so applied for has not been previously certified by the Commissioner of Crown Lands at the instance of the runholder, as not being worth ten shillings per acre, in accordance with the 14th clause of the Land Regulations of 1853,—such application to purchase at the rate of 10s. per acre will be at once accepted and the land applied for registered in the usual way as having been sold to the party making the application.

H. S. TIFFEN,  
Commissioner of Crown Lands.

P R O V I N C E O F H A W K E ' S B A Y .

**SCHEDULE OF TENDERS,**

Pursuant to Public Notice of June 18, 25, and July 2, for the Erection of the following Buildings.

NAME OF WORK.	TENDERS.	REMARKS.
Pilot Station	None	
Hospital	{ Henry Renouf and Joseph Le Quesne £315 10 0 { Richard V. Wood and W. Smith £414 0 0	} All above Public Estimate
Addition to Gaol	Richard V. Wood and W. Smith £137 0 0	
Lock-up at Clive	{ Philip Dolbell £149 0 0 { William Jarvis £157 0 0	
Native Hostelry	{ Richard V. Wood and W. Smith £205 0 0 { Henry Renouf and Joseph Le Quesne £209 0 0	

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In consequence of all the above Tenders being above Public Estimates, they cannot be accepted.—July 7, 1859.

H. S. TIFFEN  
WILLIAM COLENZO

PROVINCE OF HAWKE'S BAY.

**SCHEDULE OF TENDERS,**

Pursuant to Public Notice of June 18, 25, July 2, 9, and 16, for Conveyance of Immigrants from London or Liverpool.

WORK.	TENDERS ACCEPTED.	TENDERS REJECTED.
Conveyance of Immigrants from London to Port Napier.	Messrs. Bethune & Hunter, at the rate of £22 $\varphi$ statute adult.	None.

We recommend the acceptance of the above Tender—Messrs. Bethune & Hunter.—July 26, 1859.

H. S. TIFFEN,  
WILLIAM COLENZO.

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P R O V I N C E O F H A W K E ' S B A Y .

SCHEDULE OF TENDERS

Pursuant to Public Notice of June 18, 25, July 2, 9, and 16, for the Erection of Government Offices.

WORK.	TENDERS ACCEPTED.	TENDERS REJECTED.
Erection of Government Offices at Napier.	Mr. J. D. Smith, for the sum of £1745.	William Thomas     £ 2,200 C. R. Carter         £ 2,984 Henry Renouf, and Joseph Le Quesne £ 2,992

We recommend the acceptance of the above Tender,—Mr. J. D. Smith.—July 26, 1859.

H. S. TIFFEN  
WILLIAM COLENZO

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RETURN OF LANDS SOLD, ASSESSMENT ON RUNS, AND GRANT FEES RECEIVED AT NAPIER, IN THE PROVINCE OF HAWKE'S BAY, FROM THE 1st. OF JULY TO THE 31st. JULY 1859, INCLUSIVE.

PURCHASER.	LAND SELECTED OR APPLIED FOR.	CONTENTS.			PAYMENT.						REMARKS.			
		A	R	P	CASH.			Government Scrip.				Wellington Government Scrip.		
					£	S	D	£	S	D		A	R	P
Edward Collins .....	On his Run .....	40	0	0	20	0	0							
R. J. Duncan .....	On his Run, .....	80	0	0	40	0	0							
Edward Ribby .....	Deposit on Run, Tongohio Block	10000	0	0	25	0	0							
Donald McLean .....	License fee, and Assessment .....				12	12	6							
John M. Stokes .....	On his Run .....	368	0	0	184	0	0							
John M. Stokes .....	On his Run, .....	1040	0	0	26	0	0							
T. K. Newton .....	On James Henton's Run .....	300	0	0	7	10	0	.....	.....	.....	.....			
H. S. Tiffen .....	In the Ahuriri Block ... ..	200	0	0	100	0	0	.....	.....	.....	.....			
G. Forester .....	Suburban Sections No. 56 57 and } 58, Township of Clive	3	3	39	15	0	0							
Donald McLean .....	On his Run .....	400	0	0	200	0	0							
Walter Pilliett .....	Suburban Sections Nos. 52 and 53 } Township of Clive	1	3	37	7	0	0							
John McCarthy .....	Deposit on Run, Eskdale .....	3000	0	0	25	0	0							
John Burke .....	Meanee River ... ..	40	0	0	20	0	0							
R. J. Duncan .....	On his Run .....	100	0	0	50	0	0							
Hugh Dobbin .....	On R. J. Duncan's Run .....	40	0	0	20	0	0							
E. F. Harris & others	Grant fees ... ..				19	0	0							
Alfred Newman .....	On his Run .....	550	0	0	275	0	0							
	Total	16163	3	36	1046	2	6							

} being deposit  
of 10 per cent  
on 5s. land. 20

Crown Land Office, Napier, August 1, 1859.

H. S. TIFFEN,  
Commissioner Crown Lands.