



THE
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(PROVINCE OF NELSON).

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ALFRED GREENFIELD, Provincial Secretary.

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NELSON, TUESDAY, APRIL 26, 1870.

No. 11.

PROVINCIAL COUNCIL.

TUESDAY, APRIL 26, 1870.

THE Twentieth Session of the Provincial Council was opened this day at one o'clock, when the following address of his Honor the Superintendent was delivered:

MR. SPEAKER AND GENTLEMEN OF THE [PROVINCIAL COUNCIL.

1. I should have been glad, on the occasion of your first meeting, to present you with a more favorable report of the financial condition of the province during the year which has just expired than it is in my power to do.

The general depression which has prevailed in all parts of the colony, in the absence of any special and local cause of prosperity, has been sensibly felt in this province, and has materially affected our receipts of revenue.

The Estimate, based upon the receipts of the preceding year, which I submitted to the late Council, has not been realised, the actual receipts having amounted only to £82,000 instead of £100,000, at which they were estimated. You will therefore not be surprised, especially as the appropriations of the Council considerably exceeded the estimated means of meeting them, to find that a large number of the public works, for which nominal provision was made, have not been executed.

It is satisfactory to observe that the Customs Revenue of the port of Nelson has somewhat increased during the past financial year, and that the falling off in this important item of revenue has occurred in that part of the province which is subject to fluctuations, from which the more settled districts are comparatively exempt—I refer to the Port of Westport, where the receipts of customs duties have amounted to only £21,000 against £26,200 in the previous year. On the other hand the returns from the Port of Greymouth shew an increase in the receipts of 1869-70 over those of 1868-9 of £6,600, but as only one-fourth of the duties collected at that port are credited to the Provincial share of the consolidated Revenue, the improvement does not so greatly affect us. The amount received for duty on gold exported from the Province shows a considerable decline in the production, the receipts for the year amounting to £18,980, only, against £25,250 in the preceding year. The miscellaneous goldfields revenue derived from Miners' Rights, business licenses, and similar sources has on the contrary increased from £16,000 to £18,400.

2. With regard to the departmental expenditure, I have not been able to add materially to the large reductions which I effected last year, amounting to nearly £12,000, or 25 per cent. of the total departmental expenditure of the province. I have however kept the expenditure well within the amount appropriated, a balance of about £1500 voted for departmental purposes remaining unexpended.

I shall propose to you to make some further reductions from our already greatly diminished establishment, but on the other hand the recent extension of the goldfields will require some additions to the staff.

In the course of the year the overdraft at the Bank of New Zealand has been reduced from £6,800 to £4,100.

3. While I cannot congratulate you upon an increasing revenue, or upon an advance in the general prosperity of the inhabitants of the province, I think I am justified in dwelling hopefully upon the improved prospects which have lately opened up to us. The discoveries of auriferous quartz-reefs at Wangapeka, at Collingwood, and at the Lyell, although their value has yet to be practically developed, have been sufficiently tested to warrant the anticipation that they will afford remunerative employment for capital and labor, and will produce a sensible improvement in the condition of a large part of the province.

4. The circumstances attending the discovery of a quartz-reef in the first-mentioned district, gave rise to much controversy, and, occurring as they did during the election for the Superintendentcy, to much angry feeling and dissension in the province.

As the whole of the facts have been made the subject of public enquiry, and a long correspondence upon the subject, between the Colonial Secretary and myself will be placed in your hands, I shall only think it necessary to refer to a few points connected with it, with a view chiefly to drawing your attention to the existing land regulations of the province, and to some resolutions for their amendment, which will be submitted for your consideration.

By the 35th section of the Waste Lands Act, 1863, rural land, whether within or without the limits of surveys may be purchased by what is commonly called "free selection" at £2 per acre, and the questions which this case bring prominently forward are, firstly, whether the Commissioner of Crown Lands has the power to refuse to sell land open for sale as rural land on the ground that it is reported to be auriferous, or for any other reason, or whether the power of withdrawal is vested solely with the Waste Lands Board. The Secretary for Crown Lands (Mr. Domett) expressed an opinion that such a power must be taken to be "implied," but as he immediately afterwards quoted a decision of the late Mr. Justice Stephen, "excluding such an inference in the case of land withheld by myself" (Mr. Domett), under circumstances nearly identical, you will probably consider the decision of the Supreme Court upon a question of law to be of greater authority than the opinion of Mr. Domett.

Taking this view I propose that a clause conferring the power of temporary withdrawal upon the Commissioner, shall be submitted to you in the form of a resolution, with a view to its insertion, should you approve of it, in an amended Waste Lands Bill for the consideration of the General Assembly.

I may observe, however, that I take this course with some doubt and hesitation, as discretionary powers of this character in the hands of an individual are liable to the grave objection that they may be exercised to the disadvantage, or left unexercised to the benefit, of intending purchasers of land from personal or even corrupt motives. On this ground any such discretionary power was carefully withheld by the Provincial Council, when the provisions of the Act of 1863 were under consideration, and conferred exclusively upon the Waste Lands Board, while even that body was jealously restricted in the exercise of the power by the provision that withdrawal could only be effected by a resolution published in the *Provincial Gazette*. Undoubtedly, however, if the Provincial Council had entrusted the discretionary power to the Commissioner instead of to the Board, the unfortunate difficulty at Wangapeka would not have arisen, as Mr. Daniell, after the small purchase of 16 acres by the discoverers, would have withdrawn the adjoining land at once, and the purchase of the additional 114 acres which took place pending the summoning of the Board and the issue of the *Gazette* could and would have been prevented.

Mr. Domett, I may here observe, further expressed his opinion that the sales were in themselves illegal, on the highly technical ground that while the Waste Lands Act provides by Section 24, that the Board shall classify the lands of the province under four heads, that is to say, 1st—Town land, 2nd—Suburban land, 3rd—Mineral land, and 4th—"Rural land, being all land not comprised in any of the foregoing classes," the lands lastly described had not been formally classed as rural lands—in other words, that the unclassified lands should have been classed as such unclassified

lands, under the term Rural. The objection is undoubtedly ingenious, although I cannot think it would have much force in a Court of Law. But should it be tenable the whole of the sales of land, in all parts of the province, made under the provisions of the 35th section since the Act of 1863 came into operation during the administration of my predecessors, as well as of myself, are clearly invalid, and if you should agree with Mr. Domett, you will, doubtless, think it desirable, for the security of the very numerous purchasers, that a bill should be introduced into the General Assembly to validate all purchases of land made under the provisions of Section 35 of the Waste Lands Act, 1863.

The Attorney-General, as you will observe on perusal of the correspondence on the subject, has not expressed an opinion that the disputed sales were illegal upon that or any other ground; but he has given his decided and deliberate opinion, twice repeated, that after (and apparently at any length of time after) the sales had been made by the Commissioner of Crown Lands, the purchase money received, and a receipt given for it in the form in which it is invariably given when Crown land is sold, the Waste Lands Board has the power under the authority of section 9 of the Waste Lands Act to cancel the transaction and reserve the land for the purposes specified in that section. I will only observe upon the opinion of the Attorney-General that, if it be correct, I am unable to understand how any contract for the sale of Crown land can, under any circumstances, be binding upon the parties to it.

The vexed question of the boundaries of the South west Goldfields and the doubt which has been raised as to whether the land referred to was within or without those goldfields is one upon which diverse opinions exist. In defining those boundaries in the proclamation of June, 1868, it was my intention to adhere to the policy pursued for so many years by my predecessors, by excluding the district of Wangapeka from the operation of the goldfields Act, and promoting its permanent settlement by selling and leasing the land in accordance with that policy, with which when a member of the Council I concurred and from which, since I had been in office, I had seen no reason to depart.

So far as the imperfect materials, which, in the absence of any survey of that part of the province, were at my command, enabled me to judge, the whole of the Wangapeka district was outside the goldfields boundary, as set forth in that proclamation, and therefore open to purchase under the Waste Lands Act, 1863, and to lease under the Leasing Act 1867. The evidence given at the enquiry before the Secretary for Crown Lands that a mountain altogether distinct from that named Mount Owen (after the celebrated palæontologist) by Dr. Haast in the year 1860, had been given the same name at least four or five years previously by some person unknown, took me and every person with whom I have conversed on the subject entirely by surprise. The General Government having, however, expressed their opinion as the result of a survey under their direction, that the purchased land was within the South-west Goldfields, and having released me from my assent to their request that it should not be proclaimed a goldfield, I felt justified in availing myself of that opinion, and in proclaiming the Wangapeka and adjoining districts under the operation of the Goldfields Acts. The Commissioner of Crown Lands also declined to proceed with the preparation of the Crown grants, and offered, with my sanction, to return the purchase money of the land.

In reference to the discrepancies in certain of the plans referred to during the enquiry, I will remark in justice to the Survey Office, that the accuracy of no plan of any survey was called in question, but only that of sketch maps drawn by or compiled from the reports of various explorers, without measurements or accurate observations of any kind. In justice to myself I may add, that no one of the plans or maps in question was drawn since I have had any control over the affairs of the province.

It is perhaps desirable that I should remind you that until a general survey of the province has been made, similar boundary disputes may arise at any moment. If, for example, a quartz-reef were to be discovered upon or near to the imaginary straight lines, drawn from mountain to mountain, the exact position of which can only be guessed at, which form the boundary between this province and that of Marlborough, it would be impossible to tell until a survey had been executed, whether the land containing such reef was subject

to the administration of the Superintendent of Marlborough or of Nelson, while sales of land would, as in the Wangapeka case, be valid or invalid as they might prove to be on either side of the border.

On the subject of the forcible resistance offered by the miners to the survey of the sold land, ordered by the Commissioner of Crown Lands in the performance of his ordinary duties, I shall only say that by that ill-advised action a great injury has been inflicted upon this province, and a greater still upon the miners themselves, by the long and wearisome delay which it occasioned in the settlement of the dispute. At that time a proclamation declaring the Wangapeka a goldfield had been prepared and would have been issued immediately upon the survey being completed, while, in the meantime, miners' rights were issued, so that those persons who had taken up the ground could have held possession unless and until the purchasers could show a better title, and this, after a delay of nearly six months, entailing discouragement and loss to the whole province, and especially to the miners themselves, is the position of affairs at this moment.

5. Another amendment in the Land Act, to which your sanction will be asked, is the repeal of the provision made in section 70 for the sale of auriferous land by auction, together with some minor alterations in the preceding part of the same section.

6. Your attention will also be called to the desirability of empowering the Waste Lands Board to issue licenses for cutting flax on Crown lands on payment of a small fee per acre. In order to make this regulation operative within goldfields, where the want of it is perhaps more particularly felt, the assent of the Assembly will also be required to an amendment in the 48th section of the Goldfields Act, 1866.

7. A bill consolidating the various Country Roads Acts, and including some amendments agreed upon by the late Council, has been prepared. I am, however, advised that the 4th clause of "The Provincial Acts Validation Act Continuance Act, 1869," will not authorise the Provincial Legislature to re-enact the clauses which establish Courts of Appeal, and that some further legislation by the General Assembly will be necessary before the bill now referred to can have legal effect. In the meantime, I think it will be advisable that you should pass the bill with such amendments as you consider necessary, and I will endeavor to obtain the required sanction of the Assembly during the approaching session.

8. A short Bill amending the 17th section of the Waterworks Act, which requires that a fixed rate should be levied and paid annually without reference to the amount actually required for the payment of interest upon the loan and the expense of maintaining the works, will be among the few measures submitted to you.

As I found that the high rate fixed by the Act was greatly restricting the use of the water, and thereby, to no small extent, defeating its own object, while it was felt to be a heavy burden in a time of general depression, I felt assured that I should be only anticipating your wishes by making such a reduction in the rate as could be safely ventured upon without waiting for the correction of what seems to have been an oversight in the Act. The same result could have been arrived at by reducing the assessed value of the rated property, but I thought the reduction of the rate was the most straightforward way of meeting the difficulty, and therefore the best.

I am glad to be able to inform you that the collections under the decreased rate are rapidly approaching the sum realised under the higher one, while the usefulness of the water-supply is greatly extended by the reduction.

In the collection of the rate also I have ventured to deviate from the letter of the Act, which requires that the rate shall be paid annually. Finding that this provision would be productive of much inconvenience, I authorised the collection in quarterly payments, and propose that an amendment to that effect be made in the Act.

9. A long correspondence on the subject of the Nelson, Cobden, and Westport Railway will be laid upon your table. Negotiations, which for a considerable time promised to be productive of a successful result, have, as you will observe with regret, been abruptly broken off; but I learn from private sources that the scheme is becoming better understood in

London, and is looked upon with much more favor by capitalists than it was in the first instance. The modifications in the Act of 1868 which were proposed by Colonel Maude, namely, the extension of the area for the selection of land as far north as the Mokihinui, and the grant of a block of land in payment of the expenses incurred in the formation of a company appearing to me to be reasonable, I introduced a bill giving the Superintendent the necessary powers to concede them into the House of Representatives, which ultimately received the assent of the Legislature.

I think the terms we have offered are now at least quite sufficiently liberal, and I do not consider that the Province would be justified in granting any further material concession.

The Colonial Government having kindly offered the assistance of the New Zealand Commissioners now in England to assist in removing any obstacles which may exist in carrying out this important work, which is perhaps rather of a Colonial than of a Provincial character, I gladly accepted the proffered assistance. The Government has further intimated the possibility of including the Nelson and Cobden line in a general scheme of railways for the colony, which it appears is now under their consideration.

10. On the assent of the Governor being given to the Floating Dock Act, passed in the last session of the Council, I inserted an advertisement in some of the leading New Zealand and Australian newspapers, inviting proposals for the construction of a Dry Dock, Patent Slip, or Floating Dock at the Port of Nelson. The only definite proposal I have received is for the erection of a small Patent Slip, under conditions to which I have agreed, as you will see from the correspondence on the subject. It therefore only remains for the projectors to carry their scheme into execution, which I trust they will be prepared to do without delay.

11. The increased and increasing number of patients requiring treatment for lunacy has necessitated the enlargement of the very inconvenient and unsatisfactory buildings at present in use as an Asylum. I can nevertheless only look upon these arrangements as of a temporary character, and trust that before long the Colonial Government will see the necessity of establishing a Central Lunatic Asylum, in which patients from all parts of the Colony could be treated in a manner conducive to their recovery as well as their safe custody, which I fear can scarcely be said of any of the Provincial Asylums now in existence. Should you agree with me in this view, a resolution to that effect forwarded to the Colonial Government would have much weight, and might, not improbably, induce them to take action in this important matter during the coming session of the General Assembly.

I should perhaps remind you that I am authorised by "The Lunatic Asylum Act, 1862," subject to the provisions of "The Public Debts Act, 1867," to borrow a sum of £5000, for the purpose of erecting a suitable building, but I refrain from acting upon it, on account of the inefficiency of small asylums, as well as of the large annual expense which the maintenance of such an establishment would involve.

12. The scarcity of water upon many parts of the goldfields of the colony, and the consequent unproductiveness of much ground that would otherwise be profitably worked, is exciting increased attention in the gold-producing districts. The large expenditure required to lead a sufficient body of water to supply the wants of a district over perhaps twenty or thirty miles of rough country, together with the uncertainty of an adequate return, have hitherto proved a bar to the construction of aqueducts of sufficient magnitude to be of general public utility, and the interference of Government, either by the construction of such works at the public expense, or by guaranteeing a moderate rate of interest upon private capital employed upon them, appears to be urgently required. From the former course this province at all events is debarred by the want of funds for the purpose, and from the latter all the provinces alike are prohibited by the Public Debts Act, 1867.

During the last session of the General Assembly a committee of the House of Representatives was appointed to consider and report upon this question, but owing to delay in the arrival of required information from the Australian Colonies, the com-

mittee separated without agreeing upon any recommendation to the House.

If you should come to the conclusion that some action should be taken in this matter by the Colonial legislature, a resolution to that effect would greatly strengthen the hands of the representatives of the province, and combined with the expression of similar opinions by the Councils of other gold-producing provinces, would probably secure the desired result.

13. The diminished supply of silk, attributable to a disease which has attacked the producing worm, has brought the subject of sericulture into prominence in many parts of the world. In the State of California the number of mulberry trees which have been planted within the last few years, is estimated at between seven and eight millions. The soil and climate of many parts of this province being, in the opinion of persons qualified to judge, well adapted for the remunerative production of silk, an opinion which appears to be supported by practical experiments on a small scale, probably you will think it desirable to give this subject some attention during the present session, by taking such evidence as may be available, and reporting the result for public information and guidance.

You may also think it wise to encourage the introduction into the province of an industry which in many countries gives profitable employment to a large number of people, by the offer of a bonus or some other inducement.

14. On the opportune return of Mr. Kynnersley from England I had the satisfaction of obtaining his valuable services in the settlement of the complicated and irritating disputes then existing at Wangapeka, in the capacity of Warden of that district. Mr. Kynnersley's judgment on the principal points submitted for his decision was remarkable not only for its clearness and ability, but for the fact that it appeared to give almost universal satisfaction. I trust that you will agree with me in the desirability of re-instating Mr. Kynnersley in the position which he formerly filled with such distinguished ability and success, that of Commissioner of the Nelson Goldfields, in combination with the offices of Resident Magistrate and Warden in the Wangapeka and the Upper Buller.

I believe that this appointment would tend to remove much of the dissatisfaction which undoubtedly exists on the West Coast, although that dissatisfaction arises chiefly from the diminished revenue of the province, and our consequent inability to continue the large expenditure which we were at one time able to devote to promote the development and progress of the South-west Goldfields. It will also, I think, meet the views of the late Council, as expressed in their resolution of the 25th of May last.

15. I have the satisfaction to inform you that Mr. Kynnersley and Mr. Collins have accepted seats in the Executive Council. Mr. Kynnersley will more especially represent the wants and wishes of the South-west Goldfields, and Mr. Collins, although not representing the district in your counsels, possesses in a high degree the confidence of the miners and other inhabitants of Golden Bay.

16. The full and interesting reports of the Wardens and other officers of the South-west Goldfields will give you all available information as to the state and prospects of those districts, while Mr. Kynnersley's suggestions for their future management will, I am sure, receive your earnest attention. Full details of the progress and present condition of public works in all parts of the province will be presented to you in the reports of the Provincial and District Engineers.

17. I cannot conclude this address without again expressing my strong conviction that the depression under which this province is suffering is of a temporary character; that its rich mineral resources of which comparatively little has hitherto been developed, and upon which in the absence of large tracts of agricultural land its prosperity and progress are mainly dependent, will prove to be capable of maintaining a large and prosperous population and that the financial year now commencing will at its close present a marked and encouraging contrast with its predecessor.

I now declare this Council open for the despatch of business.

OSWALD CURTIS,

Superintendent.