

THE NEW ZEALAND ADVERTISER,

AND
Bay of Islands Gazette.

J. M. Hocken.

NO. XXVII.]

KORORAREKA, THURSDAY, DECEMBER 10, 1840.

[Vol. 1.]

THE GAZETTE.

GOVERNMENT NOTICE.

*Colonial Secretary's Office,
Russell, 8th December, 1840.*

Sale of Town Allotments.

AT Eleven o'clock of MONDAY, the 5th day of MARCH next, the COLONIAL TREASURER will put up to AUCTION, at AUCKLAND, the under-mentioned TOWN ALLOTMENTS, upon the Conditions, authorised by Government.

Further information respecting these Allotments may be obtained from the SURVEYOR GENERAL, and respecting the Conditions of Sale from the COLONIAL TREASURER.

AUCKLAND—Allotments laid down in Sections Nos. 3, 4, 7, 8, 10, 17, containing each half an acre, more or less, a Plan of which is now in course of publication.

Full particulars of these Allotments will be published on an early day.

By Command of His Excellency the Lieutenant Governor,
(Signed)

WILLOUGHBY SHORTLAND,
COLONIAL SECRETARY.

*Colonial Secretary's Office,
Russell, 8th Dec., 1840.*

CONTRACT.

NOTICE is hereby Given, that Tenders will be received at this Office until Noon of the 1st January, 1841, for erecting a four-railed Fence to enclose 50 Acres of Government Domain at the Waite Mata.

Forms of Tender may be obtained at this Office, and as adequate Securities will be required for the due fulfilment of the Contract, no Tender will be attended to unless accompanied by a Certificate from the parties proposed as such, stating that they are willing to become bound as securities for the Contractor.

The Tenders to contain the Names of the Tenderers and their Securities, and places of residence at length, and to be enclosed in a Packet, to be sealed "Tenders for Fencing Government Domain at Auckland."

Further particulars and information may be obtained on application at this Office, or to the Public Magistrate at Auckland.

By His Excellency's Command,
(Signed)

WILLOUGHBY SHORTLAND,
COLONIAL SECRETARY.

*Colonial Secretary's Office,
Russell, 26th Nov., 1840.*

NOTICE TO MARINERS.

HIS EXCELLENCY THE LIEUTENANT GOVERNOR has been pleased to direct the publication of the following Observations on the Approaches to the Town of Auckland, for general information:—

The Town of Auckland on the Southern Bank of the River Waikato is situated in Lat. 36° 51' 36" South, and Long. 174° 45' East nearly.

The entrance to the Waikato is on the Western side of the Gulf of Spouraka,

(or the Frith of Thames,) and is screened from the North East by the Islands of Rangitoto, Motu Tapu, and a succession of bold precipitous Islands lying off the North West end of the large Island of Waikakei.

DIRECTIONS.

Vessels bound to Auckland, from the Northward after making Port Rodney, should steer for the Island of Tiri Tiri Mautangi, (taking care to avoid a small rocky Islet lying one league North, 63° W. magnetic) from Point Takatou Whenua, and passing it on either side steer for Rangitoto, keeping between that Island and the Main, and not approaching either in less than 5 fathoms water. When to the Westward of Rangitoto the Bluff North Head of the River Waitemata becomes visible.

Vessels coming from the Eastward should enter the Frith between Cape Colville and the Great Barrier passing on either side of the small Island of Mokuauka, which lies about a league distant, N. N. W. from the Cape, whence a course may be shaped for the Mid Channel, between Tiri Tiri Mautangi and Motu Tapu, which nearly joins Rangitoto, and over which the Peaks of Rangitoto are visible. Then proceed as if coming from the Northward.

Vessels drawing less than 18 feet may enter the To-hawaki Channel on either side of Waikakei and pass to the Southward of the Group formed by Weikekei—Motu Tapu and Rangitoto to the entrance of the Waitemata, but this Channel is not recommended to Strangers unaided by a Pilot. In the event of stress of weather or other emergency, excellent shelter may be found inside any part of Waikakei or under the Eastern of Motu Tapu; the passage to and the Channels leading to it, being perfectly free from dangers.

On approaching the entrance of the River, care must be taken to avoid a ledge of Rocks extending in a North Westly direction from the Southern shore, which may be avoided by keeping the North Head, Southward of West, (magnetic) until a remarkable Rock on the South Shore, resembling the Bastion of a Fort, (called the Bastion Rock) bears South (magnetic.)

With a fair wind the North Head may be rounded at half a cable's length distance, and a mid Channel course will lead to the Anchorage off the Town.— With a heaving wind, tack on the South Shore, on coming into six fathoms water, and on the North Shore, which is much steeper at the first sound, cast; the only dangers within the Heads are a Spit of Land that projects half a cable's length from a low sandy point on the North Shore about a quarter of a mile inside the North Head, and a Mud Flat which lies the Southern Shore to a distance of nearly one third of a mile throughout the whole River, and all the Bays on both sides are shoal. These dangers will be avoided by attention to the Lead and the directions given above. The Navigation of the Gulf of Spouraka with ordinary care is perfectly safe; but attention is required in hazy weather, or at night, to avoid many small Islets, which vary in height from 6 to 8 to an hundred feet, and which are generally surrounded with deep water.— The only known exceptions to this rule

are the Poroguesis 30° 7' South, and Longitude, 175° 18' East, according to D'Urville, and a Rock on which the sea breaks occasionally, (called Simpson's Rock) lying about 4 or 5 miles North North East, from the North West end of the Great Barrier. There is a sunken Rock reported to exist on the North side of Waikakei, and marked on the Charts about North from the centre of that Island a long league off shore—the position or even the existence of which is not positively known. These Rocks, as will be seen by reference to the Chart, are out of the ordinary track of shipping, but contrary winds may oblige Vessels to approach them, and, therefore, are worthy of notice. The rocky Islet of Takatou Whenua above alluded to, stands about eight feet above high-water-mark, and is bold too. Its position is accurately laid down by the Baron D'Urville.

High water at Waitemata on full and change 6 1/2 fms., rise and fall about ten feet on the Spring Tides. The Flood runs to the Southward within the Frith of the Thames, but to the North on the Coast.

By His Excellency's Command,
WILLOUGHBY SHORTLAND,
COLONIAL SECRETARY.

FOR SALE BY AUCTION,

by **Wm. Wilson**,
At his Rooms, on Friday the 11th December, at 11 o'clock,

- 25** HHDs. Arrack, 5 cases mustard,
4 Casks brandy
1 Bale blankets
40 Bags sugar
20 Boxes soap
4 Tierces Tobacco
19 Barrels rum, 25 p. p.
19 Casks mits
2 Tons cop-rope
30 Gross lucifer
20 Dozen best hinges
Sundry ironmongery

ALSO,
(To close consignments.)
Britannia metal ware
Bread, &c.

Terms—Under £30, Cash; above that sum approved Bills at 3 months.

FOR SALE BY AUCTION.

by **Wm. Wilson**,

On Saturday, the 20th instant, (if not previously disposed of by Private Contract) at 12 o'clock,

2 ALLOTMENTS of Ground, separately or together, at Victoria Terrace, Kororareka, fronting Victoria Street, near the Post-office, having 72 feet frontage with a depth of 50 1/2 feet. This is the pleasantest situation in all Kororareka, commanding a view of the whole Town and Harbour.

Terms at sale.

EDUCATION.

MR GIBBS, (Clerk of the Church) begs leave to intimate to Parents and Guardians, that at the request of many parties, he proposes opening a Commercial SCHOOL on Monday, 14th inst. at. Reference as to character, &c. may be had of the Revd. Mr. BERRIOWS, who has kindly promised, occasionally to superintend the school.

Kororareka, Dec. 8, 1840.

J. A. MURRAY,

BEGS to acquaint the Inhabitants of the Bay of Islands, and its vicinity, that he has arrived by the *Thomas Lawrie*, for the purpose of establishing a GENERAL STORE at Victoria, where it will always be his study to keep a General Stock of Merchandise for the supply of the Settlers and the Shipping, Wholesale and Retail.

Dealers and others are in the meantime invited to inspect his Invoices; and are informed, that any description of Goods by the Package will be delivered from the Vessel at a small advance on their cost.

THEY CONSIST OF

Hardware, Ironmongery, and tools of every description

Blankets, shawls and general Drapery, in assorted packages to suit Dealers

Canvas, rope and cordage

Provisions, viz.—butter and cheese, corn-fed bacon and hams, split peas, sugar, salt, &c.

London soap, best quality
Treadman & Co's brown stout in hhds.

London bottled porter and pale ales
Sherry wine, in quarter casks, octaves and bottles

Port wine, in quarter casks and bottles

French Madeira in bottle

An Invoice of Medicines, well selected and shipped from London in June last

An Invoice of Leather and shoemaker's grindery

J. A. Murray will purchase or receive in exchange Oil and Whalebone in any quantity. Also, New Zealand produce of every description.

Dec. 9, 1840.

M. BROWN,

Furnishing Taylor and Draper,

BEGS to return his most sincere thanks to the Inhabitants of Kororareka, and New Zealand, for their liberal encouragement since he commenced Business, and to assure them that nothing shall be wanting on his part to merit a continuance of their favors.

M. B. begs to assure those who may honor him with their patronage, that they may depend upon the strictest attention being paid to the workmanship in all its details, and being furnished with Materials of the very best quality, (M. B. having resolved upon excluding all articles of an inferior description,) the charges will always be found moderate, as he has determined on working upon the smallest remunerating profits for Cash only.

Amongst a LARGE & CAREFULLY SELECTED STOCK, the following Articles will be found well worthy of public attention, viz. —

Superfine Blue Cloths

Ditto Black do.

Ditto Brown do.

Ditto Green do.

Ditto Invisible green

Ditto Puce

Ditto Red

Buckskins in great variety

Cassimeres in ditto

A splendid assortment of Silk, Florentines and Valencia Waistcoatings

Superfine Hats of every description

Second do

A large assortment of superfine cloaks

Second do

Gold and silver Lace, 2 inch, 1½ inch,

1 inch, ¾ inch & ½ inch wide

Gold Fringe

Gauze handkerchiefs, scarfs & veils

Jewellery

Cigars of a very superior quality

With a great variety of other Articles too numerous for insertion.

THE UNDERSIGNED,

ARE prepared to purchase to any extent, Black Oil, Sperm Oil, and whalebone, either British or Foreign
HENRY THOMPSON & CO.

ON SALE, at the Stores of the Undersigned:—

- Rum in barrels
- Gin in do.
- Bandy in do.
- Manilla sugar
- Soap, tobacco in kegs and tierces
- Tar
- Pitch
- Claret
- Sherry
- Port
- Coir rope.
- Tea, loaf sugar
- Fine biscuit.

WM. WILSON.

Dec. 2, 1840.

FOR SALE,

BY the Undersigned, on board the store ship *Tuscan*, off Russell, the following Articles:—

- Hock, Sauterne, Barsac, Moselle
- Claret, Bucellas, Port and Sherry.
- Lemon and Raspberry Syrup and Cyder
- Rum in barrels, Brandy and Gin in hhds.

Bottled Ale and Porter in 3 doz. casks

Rum, Arrack, and Gin

Raisins, Tobacco, Prints.

Blankets, Glasses, Hats

Spanish mahogany Bagatelle Boards.

JOHN J. MONTEFIORE.

Nov., 1840.

FOR SALE.

BY the Undersigned, on board the store ship *Tuscan*, off Russell:—

- Brown stout, pale and strong ales
- Tobacco, sugar, rice
- Preserved meats, anchovy paste
- Plankes, double barrel guns
- Saddles and tents.

ANDERSON, SCOTT & Co.

Nov. 1840.

TRIMMINGS

To Builders, &c. &c.

GENTLEMEN engaged in Building will save 50 per cent. by giving timely orders, and stating the lengths and dimensions to suit their Buildings, to Mr. BLACK, who can supply timber to any extent.

Opposite Russell,

Sept. 2 d. 1840.

TO LET,

THAT well known very commodious HOUSE AND PREMISES in the rear of the Bank, Kororareka, lately occupied as the "Commercial Hotel," and highly adapted for either a Family Residence or Public Business.

Apply to

BENJ. TURNER.

ALSO,

That very comfortable and convenient HOUSE, lately occupied by Dr. DAVIES, and next to the New Zealand Bank.

For particulars, enquire of Dr. Davies, or of

BENJ. TURNER.

Kororareka, Nov. 24.

NOTICE.

THE Partnership of the Undersigned is this day dissolved by mutual consent, in consequence of Mr. WEAVELL'S intended return to Sydney, and to whom all claims are requested to be sent in immediately.

**THOMAS SPICER
JOHN WEAVELL.**

Kororareka,

Nov. 11, 1840.

Witness,

R. SCOTT BUCKHAM.

NOTICE.—The CONGREGATIONAL Church in the back of the Victoria Hotel, Kororareka, will be opened for divine worship next Sunday, when Mr. QUATER will preach, in the morning at eleven, and in the evening at half-past six.

REMOVAL.

KORORAREKA WAREHOUSE—AUCTION AND COMMISSION ROOMS.

T. SPICER, begs to inform the Public, that he has opened the above House, two doors from the Stores of Messrs. G. T. Clayton & Co., and lately occupied by Mr. V. Brown, Tailor, where he has on hand every variety of Groceries, Haberdashery, Glass and Crockeryware, Wholesale and Retail.

T. S. will be glad to receive GOODS of any kind on Commission from those who may please to honor him with their commands. All Accounts will be settled with expedition.

Kororareka Beach,

Nov. 11, 1840.

Notice is hereby given, that Mr. THOMAS ADDENAM, of Kororareka, has been appointed and instructed to collect all sums due to us without delay, and his receipt, in any case, will be a sufficient discharge for the same.

**The New Zealand Advertiser,
AND
BAY OF ISLANDS GAZETTE.**

KORORAREKA:—DECEMBER 10, 1840.

Salus Populi, suprema lex, is, or ought to be the basis of all Government, and every political convulsion which has ever taken place has arisen from a forgetfulness on the part of rulers, of this great principle. In the nineteenth century it is a truth very generally acknowledged among civilized Nations, but how much vigilance is required to keep this law in force! In colonizing New Zealand we have been glad to find the English Sovereign avowing, through her Ministers, her intention of adopting this fundamental law. It were well if she knew the manner of its actual application by her Colonial servants. Do they not seem to have stepped back 200 years or more in their political views? Truly, the welfare of the people not only does not appear to be with them the highest law, but they seem to have forgotten its very existence as a principle at all applicable to public economy. It were worth our while to spend a moment in observing some of the things which the *Salus populi* demands.

First, it unquestionably requires that the equitable rights of property should be kept and maintained inviolate. Without this it is impossible that any state can stand. Wherever any law is allowed to subvert this, confusion, distress, anarchy, ruin, annihilate the Commonwealth. No law, then, can have more moral force than the *Salus populi* implying the existence and maintenance of property. A "Colonist" is properly one who is an *Agriicola*, and that not in the quality of a tenant of a proprietor. To colonize is to occupy land, and not merely to establish a mercantile settlement, and this has always been its meaning. If, then, there be no landed property here, there is no colony, and, consequently, there can be no Governor of one. The *Salus populi*, then, which has been forgotten, involves the inevitable fact, which no special law has moral force to overthrow, that there is landed property in actual enjoyment, and that it must be inviolate.

Secondly, this Law requires that every thing both in legislation and in subordinate arrangements, should be done for the people, and not against them—that every

thing should be done, not from whim, caprice, prejudice, or hostility to any party or person, but entirely and altogether with a specific reference to the advantage of the people. Every officer, whether of high or lower degree, should be appointed, kept in office, or discharged, just as the public welfare demands it. If the end be answered, and that should always be so in public good—for which he is appointed, he should remain in office—if not, he should be forthwith dismissed. The *Salus populi* is the only thing to be consulted in such a case. No other rule is admissible—or once admit the interest of the party to plead, and all effectual security is lost for the public weal. The entire performance of his duty is the rule which must be rigorously enforced. In his public capacity he must have no interest apart from the fulfilment of his office.

The same law holds with regard to regulations issued by the superior powers to be enforced by the interior. None ought to be allowed to exist which experience decides to be injurious to the community in their application, and none ought to be vexatiously enforced when assumed to accomplish the legitimate end, the welfare of the people.

Third, the same law demands promptitude both in the prevention of injury and in the advancement of good, and the rule applies equally to greater and to lesser arrangements in the social system. Nothing injures like delay. An imperfect rule applied is better than a good one suspended—“a bird in the hand is worth two in the bush.” Delay ripens every evil, prevents every good from germinating. Much more work a man the Governor who undertakes a Colony a year old in settlement, than him who sets heartily to work at first, and the chances are that he will abandon his task in despair, after having seen the people whom he was to have governed, compelled one by one to abandon the field of their enterprise.

We leave it to others to pursue these thoughts, and to our Legislators, Governors, and officials of every grade to apply them. We will, however, just present an illustration or two of this *suprema lex*, the *salus populi* as humanely applied by various official personages in, and connected with a certain so-called British Colony within the limits of the Southern Pacific Ocean.

There is a Governor at a little distance from it, who passes laws not to protect and maintain property, declared to be such by the Ministers of the Crown, but to deny and overthrow it.

There is a local authority existing only in name, or else turned short with powers little more than to tax and annoy.

There is a Colony without Colonists and without colonization, there being no property to colonize upon.

There are Magistrates and Officers whose rules of conduct are, frequently, not laws but fictitious and dreams.

There are peace officers and conservators of decorum, whose chief business is to act in defiance of the laws they are sworn to maintain and defend.

In the aforesaid Colony men may be kept in prison without any prospect of trial, since there is no court promised whose jurisdiction is competent to judge their actions. And in the mean time the unhappy inmates may suffer all the miseries of filth, want, and disease, without redress or pity. In that country the rain of heaven falls abundantly, but these poor wretches have been kept without water 24 hours, though confined in a small room 18 or 20 together.

There is a principal town-ship where there is little better than a disorderly police, without a Magistrate and without a regular Court—without appropriate walls, without assured Custom-House protection for its trade without any apparent concern on the part of the Government for the promotion of its commerce.

There are numerous Settlers who are every hour in danger of becoming more

and more alienated from the Government, and over whom it will soon lose all power to exert a healthy control.

Are not these very curious illustrations of the application of that *suprema lex* the *Salus populi*?

OUR Post-office department still, like almost every other thing connected with Government, cries loudly and imperatively for reform. The mail which came by the *Victoria* on Sunday was not delivered at Kororareka till Monday afternoon. The inconvenience was most seriously felt, as it was expected every hour that the *William Stovell* would sail for Sydney. Mr. McCarthy, the Harbour Master, instead of bringing the mail on shore, either on horse, or was ordered, we know not which, to convey it to Russell. This was justifiable only on the supposition that there were Government Despatches in it, but in that case it was the bounden duty of the Postmaster there to send it down early on Monday morning. We do not know where the fault lay, but wherever it lay it was highly reprehensible. Too much past correspondence between this colony and others yet remains obscure. A mail is a serious affair, and ought not to be touched, much less detained, by any person not sworn to take charge of it. Moreover, Kororareka is, for the present at least, the place of trade, and its interests in that point of view, beyond question demand the first consideration—for if there be no trade, there can be no colony in New Zealand. We have recently seen a mail bag between this and Russell lie a whole day in an open boat on the Beach, without a protector. Who was responsible for its contents?

Mr. McCarthy tells us, that we have no business to complain of these things—that they are done under superior orders. All this is nonsense. We, at least, would be guilty of gross injustice to the Public, if we did not speak of them; business, that we have the same interest in them that others have. In fine, we will not hold our tongues till remedies are applied. Now is the time or never to save the Colony from the ruin that impends. God shall we be to lead the dawn of good Government. We earnestly believe that His Excellency the Lieutenant Governor would further our views if he had the requisite apparatus to employ. Be that as it may, reformation must soon commence somewhere—or we may all take our departure.

It has been frequently, and just now again, suggested to us, that the evils which Kororareka suffers arise from the hostility of Captain Hobson to it. This has always seemed so incredible a thing, that we have steadfastly avoided mentioning it till now. To be hostile to Kororareka is to be hostile to a very large portion of the trade of New Zealand. A Governor without a trading community to govern!—it is impossible that these things can originate in that quarter. But we earnestly hope Captain Hobson will make a public investigation into these matters. One thing is certain—appearances tend to confirm the impression. Combine the following evidences—Kororareka is left to the government of an idle and useless police—its Custom-house business—the small portion of it which is permitted to be done here is compelled to be left to a subordinate. It has no resident Magistrate, and it is given us to understand that in future a quorum will not sit here on Court days. Its jails are sometimes detained from 24 to 30 hours after arrival. The trial is continually suspended over its head that its land titles shall not be allowed. What is the *antaria* inference from these premises? We respectfully intreat His Excellency to exert himself for the protection of our interests in such a manner as shall for ever silence the approach.

Whoever may be indifferent to these just complaints and appeals—the British

Government will not. That Government will commence no resumption of lands, no official petulance, no capricious harshness, no neglect of trading interests. Our case will very soon be a matter of Ministerial or Parliamentary scrutiny. To that judgment we appeal, if our prior appeal to our Local Government be fruitless.

To the Editor of the New Zealand Advertiser and Bay of Islands Gazette.

SIR,—Knowing that you are always ready to give publicity to wrongs, with a view to their being remedied,—I beg leave to make a few remarks. 1st. Will the Bakers be allowed to impose, and how long, upon the public, by charging more than 100 per cent. on the price of flour? The poor should answer this question, perhaps,—or would a Company remedy this crying evil? Is it true that the loaves are generally short of their professed weight? Is it not true that the proceedings of Government have caused a complete stagnation in every branch of business unconnected with Bakers and Publicans?

Is it true that 15 persons charged with different offences, are kept in close confinement in a room measuring 8 feet by 10, whilst awaiting their trials (which may come on nobody knows when) without being allowed either air or exercise?

Is it true that only one blanket is allowed to two of those unfortunates, whilst attempting to rest themselves on the log floor of their dungeon? Can these things be legal?

Is it true that until two females (supposed to be known to certain officers in high places) were associated with the former inhabitants of the dark hole, no rations beyond bread and water were allowed?

Is it true that now a modicum of meat is allowed, no means are allowed to cook it? As to vegetables the idea is quite preposterous!

Can His Excellency the Governor be aware of the difficulty in procuring payment of small accounts due to individuals working for, or supplying the Government with goods?

The last question is suggested by an individual who has had to pay £3 for boat hire to Russell Town to endeavour to obtain payment of a sum less than £20.

Will the inhabitants who have by their own zealous industry, aided by Government, made New Zealand what it is, look quietly and callously on, when the above queries are daily crying for an answer?

QUESTIONS.

Lord John Russell's Speech concluded from our last.

Now, in either of these ways, nor by any modification of these ways (all of which had taken place in the formation of the Counties which had hitherto proceeded from European countries), was it that this Colony was proposed to be established. But it was proposed to form a company, which company were not themselves to be armed with the authority of the state, nor were they themselves to emigrate and found a colony by negotiating with the inhabitants and making purchases of the land; but it was to be a company having nominal, yet a very great capital in shares, but which capital was not to be wholly paid up. Upon the credit of this supposed capital the land of New Zealand was to be sold by the company to other parties—the company guaranteeing the full purchase of the land from the Natives, and thus the large profits were to be acquired by the shareholders. There were many persons connected with that company for whom he had great respect, and who, perhaps, had the best intentions for wishing to form such a colony. But he would call upon the House to consider what a precedent the government would have established, if in the first instance they had sanctioned such a plan; or what a precedent the House of Commons would have established if they had agreed to the Bill that was submitted.

them. It would have been a precedent by which any persons in future might have acted with respect to any country, the natives of which were deficient in strength to compete with Europeans, if they would send out persons there and establish a colony, and make large profits by selling the land, to which they had no right—and who were not to be themselves at the expense of originally founding the colony, or to be settled as residents in the colony. It would have been a precedent that would have led the way to a species of land piracy all over the globe. The House of Commons rejected a bill upon that subject. At a subsequent period the government, in taking the subject into consideration, resolved to send a consul to New Zealand; New Zealand having, by the Acts of Parliament he had mentioned, been reckoned a foreign dominion; but the consul was to proceed afterwards in the manner that Vattel declared to be solvable, and in perfect conformity with the law of nations, namely, if he could make an agreement with the natives to purchase their land and territory, and then establish the authority of this country there. Now he (Lord John Russell) had not heard any thing to induce him to suppose that the noble lord (Lord Elliott) objected to that course. The noble lord read the authority of Vattel to that effect, but he had not found fault with Captain Hobson being sent out with these instructions; therefore he really did not see, in this part of the case, what it was the noble lord would complain of. True it was the noble lord complained of the instructions given to Captain Hobson as to the right of possession to the land by the settlers there. The noble lord said that Captain Hobson was to enquire whether the lands were first purchased, and he observed that there would be a great difficulty in doing this. He (Lord John Russell) did not consider there would be any difficulty in carrying out this part of the instructions. The noble lord had also said, that the crown might resume all lands on payment of the price originally given for them. Undoubtedly the crown had in respect to all its colonies, the general and original right in the land. But when the noble lord complained of the difficulty and complexity of the plan ordered by the secretary of state, he (Lord John Russell) thought that this proposal for taking away the land from the present occupants on repaying the price of the hatchet, or blanket, or some such trifling thing which they gave for it, would certainly be found much more difficult of accomplishment.

Lord Elliott was understood to say that he did not mean to give literally the original price.

Lord John Russell: No, no; but the noble lord said the original price.—Now, the original price was in most instances of very small value, the payment of which would not, he thought, be satisfactory to the settlers. But, in fact, it would have been impracticable to have done any such thing. Captain Hobson's authority would at once have been resisted. What Captain Hobson, therefore, was instructed to do was, to ascertain, if possible, by means of Commissioners of Enquiry, what was the description of title the parties had to the lands they occupied. Another objection made by the noble lord was, supposing a new colony should be established in New Zealand, the connecting that colony with New South Wales. He (Lord John Russell) admitted, that if New Zealand should be formed into a colony, it would be right hereafter to separate it from New South Wales, and that it ought not permanently to be a dependency of that colony. The Act of Parliament enabled the government to give Captain Hobson authority to enquire as to what instruments were necessary in the first formation of the Colony, and it appeared to him (Lord John Russell) better, instead of taking out a person as a new governor for the colony, that they should avail themselves of the authority already

existing in that part of the world. It was, however, merely a temporary provision, that the commission was given to Captain Hobson, who was ordered to act under the direction of the Governor of New South Wales. The Governor of New South Wales had been ordered to give Captain Hobson every aid and assistance, and soon after Captain Hobson's departure he (Lord John Russell) wrote a dispatch to the Governor, directing him to supply a force from New South Wales for the purpose of supporting Captain Hobson's authority. With respect to the persons who had come to New Zealand under the authority of the New Zealand Company, and had settled themselves there, he conceived there would be very little difficulty after the Company had retracted their first instructions, which were declared to be contrary to law, which the Counsel whom they advised with told them that all acts done under those instructions would be void and of no effect, and that any person proceeding under them might be guilty of a grave offence. After this he conceived there would be no difficulty in Captain Hobson and the emigrants, who had settled in New Zealand under the authority of the company, acting in perfect harmony together, they acknowledging (which he thought it would be to their benefit to do, and as they were advised to do) the authority of Captain Hobson as Representative of the Crown, and giving him assistance and support; while he, on the other hand, was endeavouring to maintain peace and tranquillity, in the exercise of his authority doing everything he could to promote the progress and interest of the colony. Such being the case, and the expedition, in fact, having gone there under one of her Majesty's officers, in one of her Majesty's ships, and being supported, if necessary, by a military force, and having the powers which he (Lord John Russell) had described, if he should make an agreement with the native chiefs, and obtain possession of a part of their territory, he (Lord John Russell) did not see what further could be done until the government and the house had received intelligence from him and knew something of his proceeding. The noble lord might, perhaps, wish to send out instructions to Captain Hobson, to resume all the lands now occupied by the settlers. That he (Lord John Russell) thought would create great confusion. He thought where no very unfair or fraudulent bargain had been made, the title to those lands ought to be maintained. The noble lord complained (and this was a point he Lord John Russell had almost overlooked) that he had instructed Captain Hobson that the spot price of land should be 5s. per acre; but upon that point as well as many others, the noble lord was entirely in want of information. The noble lord had gone entirely upon his information. The fact was, that land was, originally sold in New South Wales and in Western Australia for 5s. an acre. Orders were sent out that the price should be 12s. an acre. Accounts were received from the Governors of Van Diemen's Land, that there was a great quantity of land set up at 9s. an acre; in New South Wales there were no less than 300,000 acres, and the Governors stated that they did not think it right (the faith of the government having been pledged) to raise the price to 12s. an acre until that portion of the land set up had been sold. It appeared to him, therefore, that if in New South Wales, Van Diemen's Land, and Western Australia, land could be procured at 5s. an acre, and he should have ordered that no land in New Zealand should be sold for less than £1 an acre, it would, in all probability, create discontent and remonstrance; and that Captain Hobson would have experienced great difficulty in establishing such a regulation. Captain Hobson was therefore instructed to sell land at 5s. an acre, until the price in the other Colonies should rise to 12s. then he had authority to sell at that price.

Since then it had been determined that the price in the other colonies (except New South Wales) should be £1 an acre. When that took place, instructions would be given to Captain Hobson to sell the land at £1 an acre in New Zealand. It then, a committee should be appointed, and should meet in order to give an opinion that land should not be sold at less than one acre, it would be giving an opinion as to a matter which had already ceased to exist. Upon the whole he confessed he did not see what advantage was to be gained by a committee of the House upon the subject; for whatever they might devise, might be completely overthrown by the arrival of a dispatch the day after, the committee made their report. It might be necessary, probably, to legislate upon the subject in the course of next session, when the house would have the whole subject before them; but with respect to all that was required to be done in detail by Captain Hobson, it seemed to him quite impossible that a committee of the House of Commons could in any way give from time to time proper or practical directions. With regard to the general principle, he did not think there was much difference of opinion, and even with regard to the company, as the noble lord did make it a grievance as to the manner in which the Colonial Office had communicated with them immediately the authority of the Government in New Zealand was established, there would, at once be an end to all disputes. What he objected to was, that a company in London should send persons into a colony, and by means of that company's friends doing those things, which it belonged to the crown to do, which had at all times been considered as the undoubted prerogative of the crown, and which he was of opinion ought always to be maintained as one of its prerogatives.

ACCIDENT.

Our excellent Surgeon, DR. DAVIES, having, in his capacity of Health Officer, on Monday evening last, to go on board the American Whaler, with the Harbour Master, by some misapp was thrown from the boat into the water by the side of the ship, going at the rate of 5 knots an hour, where he was forced to remain with the water up to his breast, suspended by the hold he had of the end of a rope, till the Captain could, by sending some men over into the chains, rescue him from his most perilous situation. He was just on the point of letting go his hold from the numbness of the arm, when he was saved.

Mr. BUSBY is among the Passengers by the *Thomas Lawrie*.

We are well informed of two or three instances of such consideration on the part of the Lieutenant-Governor, as sufficient to persuade us that he is not unwilling to redress the people's grievances.

SHIPPING INTELLIGENCE.

- ARRIVED.
- Dec. 6—*Big Victoria* from Sydney, with Mr. Fisher, Land Customs' Commissioner on board.
- 7—*Ship He-ali*, American whaler, 211 tons, Captain Joseph Reynolds; out 37 months, with 1400 barrels.
- 8—*Baque Thomas Laverie*, 219 tons, Captain Pigeon, from Sydney the 22nd November. Brings cattle, mechanics, and passengers.
- SAILING.
- Dec. 7—*Brig "William Stowell,"* for Sydney.
- 7—*Schooner "Kate"* for Port Nicholson.

To the Subscribers to the "New Zealand Advertiser and Bay of Islands Gazette," and to
the New Zealand Public at large.

W. M. Holden.

FELLOW COLONISTS,—

WE are under the necessity of suspending for a week or two, the Publication of our JOURNAL, the cause of which we are about to relate:—

On Wednesday evening last a Notice from the Colonial Secretary, Mr. SHORTLAND, was received by our Editor—to the effect, that the Acts of Council of New South Wales regarding the Printing and Publishing of Newspapers, were to be enforced here, and that it was necessary that the provisions of those Acts should be *immediately complied with*. He was accordingly directed to repair on Saturday, to the Colonial Secretary's Office, Russell, to make such Affidavit as the Act required.

In obedience to this instruction, the Editor proceeded to Russell on the day appointed, but the Affidavit could not be made owing to Mr. Shortland not being there to meet him. The only object, therefore, which could be attained by the journey, was to get a sight of the Acts referred to.

The second Act is merely an extension of the power to take Affidavits to the Police Magistrates in all places except Sydney, and, therefore, did not particularly bear on the matter we are about to submit to you. From the first Act, which was 8 Geo. IV., No. 2, passed in the time of Governor Darling, we have gathered the following particulars:—

Clause IX. requires that "the true and real name, addition, and abode of the Editor, Printer, Publisher, and Proprietor" of every Newspaper, be printed in some part thereof, under the Penalty of £100.

Affidavit to relate to the identification of the parties whose Names are so printed, for the more easy bringing them to justice in any case of Libel.

Clause XVI. requires, that from the 1st May, 1827, Recognizances should be entered into by the Editors, Printers, or Publishers of any Newspaper—Recognizances in £300 on their own part, and £300 on the part of two or three sufficient Sureties, which would, probably, be considered forfeited in case of any Conviction under the Act. Penalty for omission of this requirement before the Publication of the Newspaper, £20.

Clause XX. enacts, that persons convicted under this Act of "Seditious or blasphemous Libels," or of any expressions tending to bring the Government into hatred or contempt, shall be punished, at the discretion of the Court, as in cases of high Misdemeanours, or by Banishment from the Colony for any number of years.

On the discovery of these points it was immediately perceived, that in case this Law were to be applied, if we persisted in publishing our Paper, after the Notice we received, without entering into the Recognizances required, we should subject ourselves to a Fine of £20 for each Publication, and that the Affidavit would bring us directly under the operation of the Act. We immediately took Legal advice on the subject, which coincided with our own conclusions, and we felt it to be the safer course to suspend our Publication for a week or two, till we could see in what way the difficulty could be obviated.

That it is the intention of our Government to bring these Acts into force in this Colony is perfectly evident and the conclusion therefore is, that every person undertaking to Edit, Print, or Publish a Newspaper, will have to choose which of the following courses he will follow—either to find the required Recognizances and subject himself to the harrassing operation of the Libel Clause, which is the twentieth of the Act above quoted, and, therefore, remain in perpetual fear of writing or publishing a single word condemnatory, or supposed to be so, of Government proceedings,—or to print or publish, liable to a weekly fine of £20—or to drop the Paper altogether.

Such, Fellow-Colonists, are the actual circumstances to which this proceeding on the part of the Government has reduced us, and will, if the same be resorted to in all cases, reduce every person undertaking a Newspaper concern in any shape whatever, in New Zealand.

One thing has now become manifest, the Government of the British Colony of New Zealand does not wish a free Press, while, on the other hand, our feeling is—a FREE PRESS, OR NONE AT ALL; and on this principle we have finally made up our minds to act. We will not be fettered by any Law or any power as to what we write on political matters affecting the rights of every Colonist and of every Native. And when this privilege is denied us, we will altogether lay down our pen.

But the question arises—1st, is the Lieutenant Governor of New Zealand obliged to bring into operation the Acts of Council referred to? We firmly believe he is not. He is not so far under the applicability of New South Wales as not to have a discretionary power in matters directly and solely pertaining to his own Government, and sure we are that the Secretary of State for the Colonies would justify and commend his laying such an Act aside as worse than useless.—2nd., Are those Acts actually and certainly operative with regard to New Zealand? In answer we should be referred, doubtless, to the Act of Council 3rd Victoria, No. 29, published in our 12th Number, August 27, authorising the application of New South Wales Laws to this Colony. There is an exception, however, in that Act. Those Laws are "to extend to, and be applied in, the Administration of Justice within her Majesty's Dominions in the Islands of New Zealand, so far as the same can be applied."

Now, if we were asked to give an opinion in any case indifferent to us, we should say, that a Law *cannot* properly be applicable in any case where it essentially defeats its own object. This will be done in the instance before us. It is not the object of the Act 8 Geo. IV., No. 2, to prevent the publication of Newspapers altogether, but to bring them entirely under Government control. But if the Act be strictly applied to New Zealand, it is difficult to conceive that such a thing as a Newspaper could be established at all either in, or opposed to, the Government interest. In a Colony where there may be from 40,000 to 100,000 Inhabitants, several Papers may respectively have for their share of Subscriptions from 2,000 to 5,000, and advertisements may be in ample proportion. A heavy Fine and heavy Recognizances may thus be endured by reason of the profits. But in New Zealand, probably for six years to come, a Newspaper can scarcely realize support sufficient to pay its weekly expenses; for, owing to the Population being both limited and scattered, its extreme inaccessibility, and the utterly unsettled and unfavorable state of Public Affairs, forbidding any reasonable expectation of a large increase by Emigration for many years to come, the utmost amount of really available Subscriptions would in any case vary between 100 and 200, and the Advertisements would be equally few in proportion. How could any Paper, the amount of whose income would be averaged by £10 to £12 per week, with all its heavy expenses to be deducted, endure its Recognizances of £600, to say nothing of Fines and Penalties just *ad libitum* of every Government servant who might happen to feel wounded by an Editorial remark?

Moreover, in such a place we are quite persuaded that no one could be found to become a Surety in a case of this sort. The circumstances of the time forbid the idea; and the extreme indefiniteness of the Misdemeanour to be punished under the Act, rendering a man liable for almost every word, would make such a voluntary engagement on the part of any man, the very height of folly and madness.

We might argue the entire unsuitableness of an Act passed specifically for a Penal Settlement, to be applied to another where every man is free. It *might*, perchance, be right—we do not know whether it is so—in New South Wales, to enact a Law which should prevent the excitement of the convict mind, and the extension of convict influence in political matters. But what has this reason to do with New Zealand, which is not, has not been, nor ever will be, a Penal state? Here, where every man has a direct interest in public measures, and is under no political or civil disability to have a voice in them, not the least restraint should be permitted to exist.

Now, Fellow-Colonists, just suppose that this attempt succeeds. Can you comprehend the full extent of the consequences? There is no power at present in existence here which either can expose or will correct public wrongs, except the Press. It is the only check public men have under such a system as the present. Even in England it is the palladium of justice, where the Legislature is the People's own. But here, where every Officer of Government may do that which is right in his own eyes, without a free Press there is no palladium, there is no certain defender. The Land Act, with all its enormities, dwindles into insignificance now. We have heretofore thought it the basis of all injury. We think so no longer. Once abandon the Press to its fate, and the Colony is ruined and lost, and nothing can retrieve it—and the Press is then abandoned when its utterance is no longer free.

Let it not be thought that it is our own cause we have been pleading. Since we have been here, the times have been so decidedly against us, that we have not even repaired the damages we sustained in our voyage, much less have we realized profit. We have honestly, sincerely, faithfully, laboured for the Public good. Now, our endeavours are to be checked we appeal to you. We shall suffer great injury by not being now allowed to make the best use for ourselves of the means we have acquired. But it is not of that injury we speak. We are determined not to be bound, and it is for the Colonists to determine how far we have their sympathy. We cannot, however, stand in this warfare alone, and our labours must cease if the Freedom of the Press be not fully maintained. Now is the time to act unanimously and with public spirit, or all is lost.

A Meeting of our Subscribers and of the Public, is hereby called for Friday next, at 11 o'clock, to be held at Jones's Royal Hotel, to consider what steps are now to be taken. We urge to promptitude, unanimity, moderation, and determination. These qualities will effect our triumph. In New Zealand the Press must be to all intents and purposes in public matters, unchained as air.

EAGAR & CO.

Kororaraka, December 15, 1840.

At the meeting the Rev. B. Quaipe, the Editor attended. The resolution was carried that G. F. Clayton (Chairman), F. Whittaker, C. B. Brewer & Newton be appointed to wait on H. E. Esq. Gov. Hobson on his return from the Thames to ascertain from him whether Mr. Esq. Gov. in N. Z. is determined to proceed in the application of the N. S. W. law regarding the press to N. Z. generally, & that a meeting be called to report the result. (v. N. Z. Journal June 15th 1841 p. 150)