This seems to be the intention of "The Nelson Waste Lands Act, 1863," with reference to the disposal of all auriferous lands, whether rich enough to be brought under the Gold Fields Acts, or only such as have been called "poor man's diggings."

How then was it that the land in the present instance, not being declared a gold field for the reasons above given, was not dealt with under the provisions intended to apply to auriferous lands left out of gold fields?

The evidence showed that the object of the Commissioner of Crown Lands was to give, if possible, protection to the discoverer of the reef, Culliford. Being unable to give it under the provisions last alluded to, the Commissioner fell back upon the regulation for the classification of lands, under which he came to the conclusion—and acted upon it—that the land was simply rural land, and could be sold as such. It is necessary now to see what the law is regarding this matter of classification.

Section 24 of the Waste Lands Act is to the following effect. The Board shall classify the lands of the Province under four heads, that is to say:—(1.) Town land, being sites intended for towns or villages. (2.) Surburban Land, being land in the neighbourhood of such sites. (3.) Mineral Land, being supposed to contain minerals of value. (4.) Rural Land, being land not comprised in any of the foregoing clauses. Provided that the Board may from time to time, if they think fit, alter the class under which any land is classified, and remove it from the schedule of lands for sale, for re-assessment accordingly; but every such alteration or removal shall be notified, under the authority of the Board, upon the Schedules in the Land Office.

Now, to a superficial reader of this clause, it would no doubt appear that the Wangapeka land —being so clearly land "supposed to contain minerals of value"—because it is notorious, and has been shown in evidence, that there have always been diggers upon the land, and that a bonus for the discovery of a gold field (which must be supposed to have meant, if not expressly so called, a "payable gold field," for no one ever heard of a reward offered for the discovery of a gold field that would not pay to work), had been actually offered and paid by the Provincial Government or Council with respect to this district—such a district, I say, it might naturally be supposed, would be placed by the section under consideration in the category of lands "supposed to contain minerals of value." But it was held by the Commissioner, very properly, and has been very distinctly pointed out by His Honor the Superintendent, that the simple fact or supposition of the existence of minerals does not render any land mineral land under the Act, but that the Board must actually and formally pass a resolution to the effect that it is so, before it can be legally dealt with as such. I think that there can be no doubt of the correctness of this view, that land cannot be dealt with under one set of rules or another in accordance with a supposition—a supposition, too, of no particularly specified individual or set of individuals. Mr. Curtis's words were, "This land had not been classed under either of the three first classes of land, and was therefore rural land. The fact of its containing gold does not affect its being rural land in law, unless it is withdrawn in some way from ordinary sale. By the thirty-fifth section of the Act, rural land is open for sale by free selection, at £2 per acre. I understand that clause to mean that any person may buy any piece of land he thinks proper, which is open for sale as rural land, at £2 an acre, and that on his tendering the money the land is his. There is no discretion whatever given to the Commissioner. Any discretion on the part of the Commissioner of Crown Lands is expressly excluded by the provision for the withdrawal of land." Mr. Curtis went on to say, "That the discretion was intentionally excluded, and that the Act provides in section 9 in what way land may be withdrawn from sale, the words of the section being 'it shall be lawful for the Board *at any time*, by resolution published in the *Gazette*, to make reserves of land (among other things) for districts proposed to be constituted gold fields.'"

The Superintendent and Commissioner's view, then, of the matter is perfectly intelligible, viz., that the land had not been classed by resolution of the Board under either of the three first heads. That it fell then under the fourth head, which comprises all lands not included under the three first, viz., rural land. That any rural land may be sold at £2 an acre; that the Commissioner cannot refuse a person tendering his money, as that would be withdrawing the land from sale by his own act; and that nothing but a formal resolution of the Board can so withdraw it.

Now I will first make a few remarks on the question of discretion, and then return to this classification clause.

The Superintendent based his view of the necessity for the most stringent enforcement of all provisions of the Land Act which take away from, or do not expressly confer, discretionary powers upon the Commissioner, upon the avowed danger of opening the door to the grossest abuses in the disposal of land, if such stringent enforcements were not insisted upon. On this point, as a general proposition, I most heartily concur with him; it is one I have on a hundred occasions endeavoured to get observed in the construction of land laws. In a report I was commissioned by Government to make some ten months ago, on the administration of the waste lands of Otago by the Provincial Government, I made the following remarks, which I must read, lest what I have to say on the present occasion should lead to the conclusion that I have not sufficiently kept in view the dangers of giving discretionary power to officers dealing with public lands. In the passage alluded to, another discretionary power given to the Superintendent was the immediate object commented upon, but this power was objectionable chiefly because accompanied by the very power of withdrawing lands from sale now under consideration:—

"There remains, however, to be noticed one great evil connected with the administration in Otago; one indeed which, while it exists, must naturally cause dissatisfaction, even where no practical wrong may have been done, because it offers such great temptation to take advantage of the great facility the law gives for abuse, that suspicions will be sure to be excited, whether well grounded or not, that the abuse is of frequent occurrence. This evil is the constitution of the Waste Lands Board. The Board consists of a Chief Commissioner and four others, all appointed by the Superintendent of the Province. So far, the law is at fault, and the Commissioners would not have found it necessary to comment upon it; but the mode in which the power given is exercised is distinctly a question of administration of the law. Now, the established custom in Otago appears to be the appointment by the Superintendent of