

FURTHER PAPERS RELATIVE TO NATIVE AFFAIRS.

1 E—No. 1.

No. 1.

COPY OF A DESPATCH FROM GOVERNOR GORE BROWNE, C.B., TO THE RIGHT HON. SIR
E. B. LYTTON, BART.

Government House,
Auckland, New Zealand,
14th October, 1858.

SIR,—

I have the honor to forward copy of a Memorandum on Native Affairs generally, and on some Acts of the Assembly relating to them, signed by Mr. Richmond on behalf of my responsible advisers. The Acts here referred to shall be forwarded separately, and will form the subject of other despatches.

No. 102.
MISCELLANEOUS.

2. The memorandum is, as might be expected from a gentleman of Mr. Richmond's known abilities and legal knowledge, a very able production, setting forth the views of my responsible advisers, grouping them skilfully, and placing them in the most favourable point of view.

C. W. Richmond,
29th September.

3. Having, in the course of my despatches to yourself and your predecessors, and in various minutes addressed to my advisers, indicated the greater part of the measures referred to (though the merit of shaping them into law is entirely due to my advisers), I cordially agree in much that is stated in the memorandum. I cannot, however, assent to the inference implied, though not directly asserted in the memorandum, that the true end of British policy, and the true principles of administration in reference to the Natives were neither understood or effectively carried out until the advent of my present advisers to power. Such an inference would be very unjust to my predecessors, and not less so to the conscientious and experienced gentlemen employed for so many years in the Native Department; but who are not viewed in a favourable light from being what are termed irresponsible officials.

4. The progress of civilization among the natives, though very slow, has been progressive, and it would have been absurd in Governor Hobson to propose what it might be culpable in me to neglect; and even the Acts of Legislation now inaugurated will probably lie dormant, or only come into very partial operation, for some years.

5. In the course of his arguments in favor of the "Native Territorial Rights Bill," the writer uses the language here quoted (sec. 32):—"But what really lies at the root of this objection is a doctrine so mischievous and unfounded that it requires special notice. It is asserted that the native is really entitled to an absolute grant in fee simple of whatever territories his tribe may think fit to make over to him in severalty, however extensive, and that to refuse such a grant—at least to impose any condition which does not operate for the sole and exclusive benefit of the natives—is unfair."

If by these expressions it is intended to invalidate the rights of the aboriginal natives to their unoccupied lands, the subject is one which involves the peace of the colony: the rights of the natives secured to them by the Treaty of Waitangi, and the fulfilment of engagements made by successive Governors, and confirmed by successive Secretaries of State.

6. In refutation of these arguments, I might content myself with quoting the evidence of Mr. Merivale given before a Committee of the House of Commons on 7th July, 1857, in which he states in few words as follows:—"The native title to land in New Zealand is very peculiar: in most colonies of the Crown, the natives have been recognised as possessing certain possessory rights over the soil, and they have been paid comparatively trifling sums for these rights. In New Zealand, by the interpretation put upon the Treaty of Waitangi by the Home Government, it was considered that the New Zealand tribes had a right of proprietorship over their lands—not simply a general right of dominion, but a right of proprietorship like landlords of estates, for which the Crown was bound to pay them." In addition to the conclusive statement above quoted, I have collected and formed into an appendix some of the decisions on this subject, and indicate them below.* For a collection of these authorities, I am much indebted to Mr. Martin, late Chief Justice of this Colony, whose name is never mentioned without respect either by native or European, and whose experience and intimate acquaintance with the Maories cause him to be recognised as an undisputed authority in everything relating to them.

7. In commenting upon this memorandum, the scope of which is so general, some remarks on the relations of Her Majesty's Government and that of the settlers towards the natives will hardly be deemed irrelevant. It was a hackneyed expression of the party who strenuously agitated for, and succeeded in obtaining parliamentary and responsible government for this Colony, that government and

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- * 1. Treaty of Waitangi.
 - 2. Report of Select Committee of House of Commons, 1837.
 - 3. Sir R. Peel, House of Commons' debate on New Zealand affairs, 1845.
 - 4. Lord Normanby to Governor Hobson, Parliamentary Papers, 1846, p. 39.
 - 5. Royal Instructions to Governor Hobson.
 - 6. Lord John Russell to " " 1841.
 - 7. Mr. Under Secretary Hope to New Zealand Company, 1843.
 - 8. " " " 1843.
 - 9. Sir R. Peel in House of Commons on the above, 1845.
 - 10. Lord Stanley to Lieutenant-Governor Grey, 13th June, 1845.
 - 11. Governor Grey to Secretary of State, 24th November, 1845.
 - 12. " " " 10th December, 1845.
 - 13. Mr. Gladstone to Governor Grey, 26th May, 1846.
 - 14. Governor Grey's Address to Legislative Council, 12th December, 1847.
 - 15. Instructions by Governor Hobson to Missionaries and others when requesting them to obtain signatures to the Treaty of Waitangi.
 - 16. Major Bunbury's explanation of Treaty to Natives.
 - 17. Lord J. Russell to Governor Hobson on the above.
 - 18. Circular by Governor Hobson to Native Chiefs on the above.
 - 19. Lord J. Russell on the above.
 - 20. Prospectus of New Zealand Association, 1837.
 - 21. Decision of Supreme Court of New Zealand as to rights of Natives.
 - 22. Extracts from Kent's Commentaries, iii, Lecture 51.
 - 23. Sir H. Douglas, House of Commons' debate, New Zealand Affairs, June, 1845.
 - 24. Remarks by Chief Justice on the above.