

Remarks by the Governor—
See remarks by Native
Secretary p. 45

The last purchase of 1
of a million of acres
averaged 1s 6½d per acre

The effect of this would
be to induce Europeans to
select coveted plots of
land and to leave in the
hands of the Maories
large tracts—the aliena-
tion or retention of which
is supposed to convey or
retain a right of So-
vereignty.

Remarks by the Governor—

The Constitution Act
made provision for the
purchase of Native lands,
and a loan was by no
means indispensable
though very advantage-
ous. So long as lands are
bought at an average
of 1s. 6½d. per acre
and never resold at less
than 10s it will not be
difficult to obtain funds
for their acquisition. Pro-
vision is also made for a
sinking fund for this
purpose by the Land
Revenue Appropriation
Act of this Session.—Vide
Mr. Stafford's Memorandum,
par. 67, enclosed in my
Despatch No. 99, of
11th Oct., 1856.

25. Although the measure was not framed with any direct view to colonizing objects, it cannot be doubted that the proposed Registration of Native Title, (too long neglected), would facilitate the operations of the Land Purchase Department, and the acquisition, by cession from the Tribes, of fresh territory. At present there are no fixed rules whatever as to what shall be recognised as valid claims to share in the money paid for the surrender of the Native right. Absurd and vexatious disputes constantly attend the negotiations of the Department, and are only settled by a large expenditure of Colonial Funds.

26. Under the second division of the Bill, a small extent of land might come into European hands by purchase from the Native Donees. Upon all such transactions the XI. Section imposes a Tax of Ten shillings per acre, payable by the purchaser. The fund thence accruing, it is provided, shall be expended in public works and improvements on the land, or in its neighbourhood. Ministers consider that it is by no means desirable that such purchases should become at present the favourite mode for the acquisition of land by European Settlers; and the amount of the proposed tax is designedly placed sufficiently high to prevent many such transactions taking place. Ten shillings per acre is the ordinary price of Waste Lands in all the Provinces of the North Island, and the amount of the Tax will consequently operate, differentially, in favour of the ordinary mode of purchase.

27. So long as the loan for the extinction of Native Title holds out, and it is possible to obtain the cession of Tribal rights over considerable tracts of country, through the operations of the Land Purchase Department, it appears preferable that the European settler should purchase of Government, rather than of Natives holding Crown Grants. At the present rate of expenditure the Loan will not, however, last for more than five or six years, and an immense area will be left still subject to the Native Title. It therefore behoves those who direct the affairs of the country to look forward and consider of a substitute for the present system, which at the expiration of that period may be capable of being worked on an extensive scale, and may supply the two essentials,—Land and a Land-fund. The best plan which has suggested itself to the present Advisers of the Crown is, that the Native Title, being first carefully ascertained by proper officers, should be gradually commuted into English fee-simple. That the land should remain unburthened whilst in Native hands, but that a Tax should be paid by the European purchaser, and that its proceeds should be devoted to the improvement of the country. The present measure, in its secondary aspect of a Colonizing measure, may be regarded as a cautious experiment of such a plan on a very small scale. If found to work well, the principle might, in future years, be extensively acted upon.

VI.—Objections to "Native Territorial Rights Bill" discussed.

28. It now becomes necessary to advert specifically to certain objections which have been raised to the Bill under consideration. The first is that the power of issuing Grants to Natives is vested in the Governor in Council, instead of in the Governor solely,—thereby necessitating the concurrence of the Responsible Ministry of the day. This is alleged to be a departure from the terms of His Excellency's Memorandum of the 15th April, 1856, establishing Responsible Government.

29. By the Memorandum of 15th April, 1856, the Governor reserves to himself the right of acting upon his own responsibility, in opposition to the advice of Ministers, upon Imperial questions; including questions affecting the relations of Government with the Native Tribes. Obviously the Memorandum could only affect the existing powers and prerogatives of the Crown. It was not competent to the Governor to stipulate as to the conditions under which new and extraordinary powers should be conferred by the General Assembly upon the Executive;—nor did his Excellency attempt to do so.

30. Looking at the question as one of abstract constitutional principle, no Ministry could propose to entrust a power vitally affecting the relations of the Settlers and Natives, and the pecuniary resources of the Colony, to the discretion of a single individual, however elevated his position, who must commonly possess only a limited experience and a transitory interest in the affairs of the country. Even in a Crown Colony, acts of so high a nature are often required to be done with the advice of the Executive Council. It appears surprising that the General Assembly could by any person be expected to make over, without any guarantee for its exercise in accordance with public opinion, a power greater than was ever entrusted by the Imperial Government to the Governors of this Colony,—but, a power, which, it is not forgotten, was by one of those officers illegally assumed, and employed in a manner of which the evil effects have not, after a lapse of fourteen years, entirely passed away. Ministers feel assured that the Colonial Legislature could never be brought to sanction the concession of such an unlimited discretion; more especially considering the effect of its possible abuse upon the future produce of the Territorial Revenue, and the heavy liabilities of the Colony to the Home Government and the Public Creditor. The power is virtually a power over the Public Purse, which, to a limited extent and under due guarantees, the General Assembly has shown itself willing to concede to the Executive for the good of the Natives; but which it is in vain to expect it will ever absolutely alienate.

31. The second objection taken to the Bill, which it seems requisite to notice, is, that the imposition of a payment upon alienation to Europeans is an unjust exaction from the Native Donee. To this it is answered, that no Native is obliged to take a Grant, or, having obtained one, to sell to an European. By accepting the Grant, the Native's position is vastly improved, even though the power of alienation should be altogether withheld. But there is another sufficiently obvious fallacy in the objection. It is assumed that the acreage tax reduces, *pro tanto*, the purchase money. It is overlooked that the tax is applicable to the improvement of the land sold, and thereby increases its value—in most cases to a greater amount. The sum payable into the Treasury is no part of the price of the land. It is the price of the improvements.

Remarks by the Governor—

A new power is offered,
and where an offer is
made the power of refusal
is implied. For the rea-
sons given in my despatch
on the Territorial Bill I
declined the offer. The
question is however really
brought to an issue in
paragraph 32 of this Me-
morandum, and discussed
in my despatch.

Remarks by the Governor—

If lands over which the
native title has not been
extinguished are the pro-
perty of the Crown, it is
so; but if not, the asser-
tion is unfounded.—See
despatch which accom-
panies this memorandum.

Remarks by the Governor—

See my despatch which
accompanies this Bill.

Remarks by the Governor—

Would a purchaser obli-
ged to pay this tax give
as much to the native
vendor as if he were ex-
empted from it.