

from the Government, to the great injury of the Colony. Any legislative Act which, in the present state of the country, should have the effect of encouraging individual purchase from the Natives, would be injurious in proportion to the extent of its operation; virtually amounting to a surrender of the Crown's right of pre-emption, it would raise difficulties in the way of the acquisition of land by the Government for the purposes of colonization. The existence of two systems would further tend to confuse and unsettle the Native mind.

The transfer of land from the aboriginal owner to the European settler, involves wider considerations than the mere change of individual ownership, and is felt to do so by the Natives themselves. They regard the Crown's pre-emptive right as their security against their becoming dispossessed of their land in a way which, as a people, they would regard as insidious and underhand, however fair and *bonâ-fide* each separate transaction might be as between the parties individually concerned. The extinguishment of the Native title over a block of land is regarded not merely as a mercantile transaction but as an important national act, a surrender of territory by the Maori people to the British nation, a concession to the Pakeha. Every tribe in New Zealand is more or less interested in every transaction of the kind. The tribes making such surrender incur a degree of responsibility for their act in the eyes of all the other tribes with whose cognisance at least it is done. By allowing private individuals to treat with Natives for the purchase of land, the public and national character of the transaction is lost, and should land be extensively alienated from them in this manner, much confusion and dissatisfaction would be likely to arise, the Government also might be charged with a breach of faith to the Natives, who have always been told that the right of pre-emption is one which the Queen maintains inviolate, for their benefit as well as that of the Europeans. In support of these views I would point to the recent attempts at Waikato and other places to organise an opposition to the sale of land.

Minute by Ministers—Mr. Smith arrives at the same conclusion as Ministry—that the powers of issuing Grants ought to be conceded—but is for dispensing with checks on the exercise of that power, which it is believed the Colony will never consent to forego.

C. W. R.

I am of opinion that great caution should be exercised in issuing Grants to Natives, but that an independent discretionary power should be vested in the Governor of the Colony to make Grants, in the manner described in clause 9, in such cases as he may see fit upon cession to the Crown by the owners for the purpose. That such Grants should create either an alienable or an inalienable estate, as the Governor may see fit.

Clause 11.

The proposed condition of the payment of 10s. per acre to the Government on alienation to Europeans of land held under a Crown Grant, is one which after mature consideration appears to me objectionable. It would be regarded by Natives as an arbitrary and unfair proceeding on the part of the Government after having at some expense made good their title and obtained a Grant from the Crown. As there is reason to believe that the proposed tax would not check individual purchase by Europeans, I do not see any just ground for its imposition, and think a better security against abuse will be provided by giving the Governor power to grant an alienable or inalienable estate, at his discretion.

On this point see Ministers' Memorandum of 29th September, 1850, paragraph 31, *et seq.*

C. W. R.

Clause 12.

The limitation herein contained with reference to the quantity of land which may be granted, and the time during which the Act should continue in operation, appear to me open to serious objection. The Bill appears to recognise the right of the Natives to receive Crown Titles to their lands when they can prove ownership, or when the tribes holding in common are willing to cede their lands to the Crown for the purpose of obtaining grants in severalty. If this right be admitted, I do not see upon what principle the proposed limitation is sought to be imposed. The right, if it exist, can be subject to no such limitations. It would be regarded as an act of partiality and injustice on the part of the Government to refuse to another tribe in 1862 what had been conceded to one in 1861.

Minute by Ministers.—The fallacy is in assuming, that to be a right in the Native which is really a gratuitous concession by the Government. The Legislature very properly will not trust Governor or Ministers, or both together, with any such extravagant discretion as an unlimited power of granting away the Colonial Territory to Natives in fee simple. What the Natives think on such matters depends much upon what is put into their heads by Europeans—especially by persons in authority.

C. W. R.

Clause 13.

The guarantee which the Bill proposes to give for the expenditure of the 10s. per acre tax, upon or in the vicinity of the land in respect of which it shall have been received, would not satisfy the Native seller, nor would it be fair to him. Such expenditure would benefit not himself but the purchaser of his land. It would be in reality compelling him to contribute 10s. per acre to the improvement of property, his interest in which he had just parted with to another.

For Ministers' answer see their Memorandum of 29th September, 1850, paragraph 31, *et seq.*

C. W. R.

(Signed) THOS. HY. SMITH.