

Enclosure in No. 55.

MEMORANDUM by Mr. STAFFORD.

Wellington, 16th September, 1867.

THE Responsible Advisers of the Crown in New Zealand observe the following statements in the Secretary of State's Despatch to the Governor, No. 37, of the 18th June, 1867:—

"With regard to the ultimate disposal of this regiment (18th) I await the arrival of the next mail, in the expectation of receiving by that opportunity the further expression of your views on the subject of my predecessor's Despatches referring to military operations in New Zealand, which your Despatch of the 4th of April, No. 30, promises."

On referring to the Despatch of the 4th April, it will be observed that the Governor did not (as assumed by the Secretary of State) promise a further expression of his own views, but that he merely transmitted, at the request of his Responsible Advisers, a Memorandum on the subject of that regiment, in which Memorandum they stated that they would "take another opportunity of expressing their views on the subject of this Despatch, and of other Despatches from the Secretary of State referring to military operations in New Zealand." This promise was fulfilled in their Memorandum of the 17th April, 1867, enclosed in the Governor's Despatch No. 47, of the 27th of that month.

This inaccuracy of statement which Ministers point out assumes a peculiar importance, inasmuch as the Despatch containing it concludes with the simple announcement that the Governor's successor will forthwith be appointed.

Adverting to the previous part of the Despatch of the 18th June, Ministers are unable to understand on what grounds the Secretary of State believes that the grave constitutional questions raised by the Governor in his Despatches to the Colonial Office are mere personal matters, which the withdrawal from the Colony of Her Majesty's regular forces, and the transference of General Chute's head quarters from Auckland to Melbourne render it unnecessary to discuss.

These questions are, generally, to the following effect:—

1. Whether the Governor of a Colony, holding Her Majesty's commission as Governor and Commander-in-chief, responsible for life and property, and invested with constitutional relations to the Colony, can be required by a Despatch from the Secretary of State, to hold the powers given to him by the Royal Commission in subservience to a subordinate military officer, in respect of whom that responsibility and those relations do not exist.

2. Whether the Colony can be held liable for the consequences which may ensue from the sudden withdrawal by that subordinate officer of garrisons from disturbed districts without an opportunity being afforded to the Governor and the Colonial Government of making any provision for the protection of life and property, and for the fulfilment of obligations entered into by them with loyal Natives. On this point Ministers would refer to the enclosures in the Governor's Despatch No. 24, of the 19th February, 1867, from which it will be seen that General Chute, on the 7th of that month, without previous communication with the Governor, informed the local Government Agent at Auckland that the 57th Regiment would be withdrawn in eight days from the outposts in Waikato and Raglan, and that the Government Agent pointed out the direct encouragement which such a sudden step would give to the insurgents at Tauranga; that he had no means of providing protection after the abandonment of those posts; and in vain requested that action might be deferred until at least an opportunity had been given of communicating with the Governor.

3. Whether the proper functions of a Governor and his Responsible Advisers can be to a great extent abrogated, and the good government of a Colony frustrated by the system adopted by the Imperial Government of receiving secret accusations of the gravest kind against the Governor and the Colonial authorities, and of officially publishing those accusations, before either explanation or defence could be received. In illustration of this, Ministers would refer to the Papers on New Zealand Affairs presented in May last by Her Majesty's command to both Houses of Parliament, wherein is published the Despatch No. 9, of the 1st February, 1867, from the Earl of Carnarvon, transmitting to the Governor for his explanation letters from Deputy Commissary-General Strickland, in which the Governor and his Government are charged with conducting an aggressive war against the Natives, and with improperly using Imperial troops and money for the purpose of acquiring forcible possession of Native territory. The Secretary of State, who sent these letters to the Governor for explanation, must necessarily have been aware that all knowledge of them had been previously withheld from the Governor, yet does not refrain from ordering, before any reply could be received, their publication in the most authoritative form known to the constitution of the realm.

4. Whether it was consistent with the due position of the Governor, and with the rights of Her Majesty's subjects, that General Chute, as stated in the Governor's Despatches to the Secretary of State (Separate, 13th June, 1866, and No. 18, 1st February, 1867), should have caused a Native prisoner to be executed without trial, and have withheld from the Governor all knowledge of this fact.

These questions do not, as the Secretary of State apparently believes, raise merely temporary and personal issues, but their determination involves principles affecting the lives and property of both races in this Colony.

Ministers will only briefly advert to the recall of the Governor. They recognize the absolute right of Her Most Gracious Majesty to appoint and recall at pleasure Her Governors; but they regret that Sir George Grey, who has held for twenty-six years Her Majesty's commission as Governor of various Colonies, and has rendered to the Empire great services, which have been from time to time cordially recognized by the most eminent English statesmen, should be summarily recalled without one word of explanation in the Despatch which communicated that recall. Ministers desire to express their sympathy with His Excellency at having been, by so unusual a proceeding, subjected to what appears to be a studied act of discourtesy; and they are unable to divest themselves of the belief that the recall of His Excellency has in a great measure resulted from the uncompromising manner in which he has upheld the constitutional position of the Representative of the Crown,—a position upon the due observance of which the rights and liberties of Her Majesty's subjects in New Zealand so greatly depend.

E. W. STAFFORD.