

On the 16th November, 1840, a Charter was signed by Her Majesty erecting New Zealand into a separate Colony, and which provided that thenceforth the three principal Islands were to be known as New Ulster, New Munster, and New Leinster; Captain Hobson was appointed Governor and Commander-in-Chief of the new Colony, and instructions were issued under the Royal Sign Manual, dated the 5th December, 1840, prescribing his powers and duties, and those of the Legislative and Executive Councils. These instruments were officially proclaimed in the Colony on the 3rd May, 1841.

The Charter empowered the Governor to grant "waste lands" either to private persons or to corporate bodies, but the following paragraph states:—

"Provided always, that nothing in these our letters patent contained shall affect or be construed to affect the rights of any aboriginal Natives of the said Colony of New Zealand to the actual occupation or enjoyment in their own persons, or in the persons of their descendants of any lands in the said Colony now actually occupied or enjoyed by such Natives."

Finally, the Governor was enjoined to use every effort to "promote religion and education among the Native inhabitants, to protect them in their persons, and in the free enjoyment of their possessions; by all lawful means to prevent and restrain all violence and injustice which may be attempted against them, and to take such measures as appear necessary for their conversion to the Christian faith, and for their advancement in civilization."

With reference to the Land Claimants' Ordinance of 1840 passed by the Governor and Council of New South Wales, to empower the Governor to appoint Commissioners with certain powers to examine and report on claims to grants of land in New Zealand, Lord John Russell in a despatch to Governor Hobson dated April 16th, 1841, informs him that although Her Majesty had been pleased to approve the general provisions of the Act, that circumstances to which it was impossible the legislation of New South Wales should have adverted, would probably render the execution of it difficult, if not impossible.

The separation of New Zealand from New South Wales would also render obsolete and impracticable those enactments which require the interposition of the Governor of the older Colony. The arrangements with the New Zealand Company forbade the application of the Act in its existing form to the case of lands to be granted to them, while some revision also was necessary of the rules respecting the number of Commissioners.

Lord John Russell further states that in reference to the Company's claims, they are to be committed to the investigation of the single Commissioner appointed by Her Majesty for that purpose, and not to the three Joint Commissioners as the Act had provided. The Governor was therefore instructed to prepare a similar law to be passed in New Zealand to meet the exigencies pointed out.

In the meanwhile the local Government of New Zealand had already thought it desirable to enact a law on land claims by their own authority. The new Act passed on the 9th June, 1841, by the Governor and Legislative Council at Auckland to repeal the Act of 1840, was almost a literal transcription of that measure. Under its provisions the Governor was empowered to appoint Commissioners to hear, examine, and report on claims to grants of land in virtue of titles acquired from the Natives, such claims to be made at latest within twelve months from the date of the Ordinance. This was the principal alteration, the first act limited the time for the presentation of claims to six months. A scale of fees to be paid by land claimants was scheduled with the Ordinance, and Major Richmond and Colonel Godfrey, who had been previously selected by Sir George Gipps, were re-appointed Land Commissioners by Governor Hobson. All awards recommended by the Commissioners on being approved by the Governor, were to be notified in the *Government Gazette*.

In the meantime it had been necessary to provide in England for the peculiar circumstances of the New Zealand Company. This case stood by itself. Not only had the Company embarked in an amount of expenditure with which the outlay all other claimants could enter into, had no kind of comparison; but what perhaps more particularly distinguished their case, instead of having merely paid for their lands they had incurred heavy expenses for sending out emigrants from the United Kingdom, and purchasing goods and stores for their use.

Under these circumstances an agreement was concluded in November, 1840, by which they were to have credit for the latter as well as for the former branch of expenditure; and the price to which land was to be assigned to them for the whole was fixed at 5s. an acre.

In consideration of receiving a Charter the company was to waive all claims to lands in New Zealand on the ground of purchases from the aborigines, and to receive from the Crown a free grant of four times as many acres as it could prove it had expended pounds sterling for the purposes of colonization. This offer was accepted, and a Charter issued to them on the 12th February, 1841; the Company's capital fixed at £300,000, whereof two-thirds were to be paid up within the year; and an accountant (Mr. Pennington) was named to investigate the expenditure.

With reference to the reserves made by the company within their purchases for the Natives, the 13th Clause of the Agreement transmitted to the company by Lord John Russell makes the following provision:—

"It being also understood that the company have entered into engagements for the reservation of certain lands for the benefit of the Natives, it is agreed that in respect of all lands to be granted to the company as aforesaid, reservations of such lands shall be made for the benefit of the Natives by Her Majesty's Government in fulfilment of and according to the letter of such stipulations, the Government reserving to themselves in respect of all other lands to make such arrangements as to them shall seem just and expedient for the benefit of the Natives."

In evidence given by Mr. Edward Gibbon Wakefield before a Select Committee, appointed by the House of Commons, to take evidence on New Zealand, in 1840, in reply to a question put by the chairman (Lord Eliot) as to the terms upon which the 20,000,000 acres purchased by Colonel Wakefield for the Company had been acquired from the Natives he said:—"That the terms were a payment in the first instance of various goods such as the Natives require, but which the company regard as a mere nominal price; they had paid for their waste lands a much higher price than had commonly been paid by other purchasers in the first instance; but the consideration which they offered to the Natives, and which they regarded as the true purchase money of the land was the reserved eleventh, which eleventh by means of

Lord Stanley
to Governor
Hobson, dated
19th Decem-
ber, 1842,