

supposed to represent the extent of land they were entitled to within the Nelson settlement under the rural selections, consequently no other provision was made under that head. Unfortunately for the interests of the trust this land was included in the subsequent sale of the adjacent country by the Natives in 1853.

Although the block alluded to contained a larger proportion of land than the Natives were entitled to, the want of proper precautions at the time caused a diminution in the estate of 1,500 acres, the original quantity set aside under the Nelson scheme as Native reserves being 20,100 acres, viz:—100 town sections of one acre each, 100 suburban sections of 50 acres each, and, 100 rural sections of 150 acres each, out of which only 5,057 acres have been retained.

In further reference to this subject:—

Mr. Commissioner Spain in a letter to the Colonial Secretary, dated January 29th, 1843, commenting on a letter received from the Company's principal agent, covering a statement of the land proposed to be chosen under Mr. Pennington's award, which after deducting the lands already chosen and the Native reserves, left a balance of 745,919 acres to be selected in other localities, states:—

"That he was of opinion that Colonel Wakefield had committed an error in making his calculations exclusive of the Native reserves instead of inclusive, as it would seem from a letter written by Governor Hobson to Colonel Wakefield, dated 25th September, 1841, that the quantity guaranteed to the Company by him amounted to 160,000 acres to be chosen in the neighbourhood of Port Nicholson and New Plymouth. At the time that letter was written the reserves for the Natives had been actually made and chosen upon the Company's plans of those districts, and that had Captain Hobson intended to guarantee to the Company the 160,000 acres of land exclusive of the Native reserves it would have been so specified in his letter." And the conclusion put by Mr. Spain upon the 13th clause of the agreement of 1840, was that "the New Zealand Company having agreed out of the lands purchased to make certain reserves, the Government had determined that such reserves shall now be made out of the lands about to be granted to the Company, and to take the management of such reserves into its own hands, instead of leaving it to the New Zealand Company."

Mr. Shortland, the acting Governor, in reply, dated 12th April, 1843, directed Mr. Spain "to accede to Colonel Wakefield's request regarding the selection of the land in satisfaction of Mr. Pennington's award, together with the 160,000 acres purchased by them from the Government, in any block or blocks within the Company's territory, provided they conform in figure and extent to the regulations laid down in clause 6 head 1, of the agreement of 1840."

"But this point as well as the one regarding Native reserves the acting Governor decided to submit for the decision of the Secretary of State. In the meantime Mr. Spain was to inform the Company's agent that an allowance in land will be made equal in amount to the Native reserves, and also to the lands selected in blocks as at present prescribed under the regulations, in the event of these questions being decided in favour of the Company."

With reference to the 13th clause of the agreement of 1840, the Company's view of the matter was this:—

"The engagements and stipulations alluded to are contained in the deeds of purchase between the Natives and Colonel Wakefield. The intention of the clause was a covenant on the part of the Colonial Office that the Government to whom was surrendered all the lands except the portion to be granted to the Company, should fulfil their engagements by reserving a specific proportion, not out of, but 'in respect of' the lands to be granted to the Company, and make such other arrangements as might be fully deemed an equivalent for that proportion 'in respect of all the lands.'"

The interpretation put by the Colonial Office upon that covenant is contained in the following instructions from Lord Stanley to Governor Fitzroy, dated April 18th, 1844, having reference to the various points submitted by the acting Governor (Mr. Shortland) in a letter dated April 17th, 1843, says:—

"Turning now to the subject of Native reserves there can be, I think, no question that they should be taken out of the Company's lands. The Company had, in former instructions to their agent, provided for reserving one-tenth of all the lands which they might acquire from the Natives for their benefit. By the 13th clause of the agreement of 1840, the Government was in respect of all lands to be granted them (the New Zealand Company) to make reservations of such lands for the benefit of the Natives in pursuance of the Company's engagements to that effect. It seems quite plain therefore that the Government is to reserve for this purpose one-tenth of the Company's lands. The fact is almost proved by the very language of Colonel Wakefield's accounts themselves; for on assuming that the Government was to allow for Native reserves over and above the quantity assigned for the Company, he is obliged to designate these lands as the eleventh of the total grant, a proportion which was never heard of until the present statement arrived."

"The reserves in question must therefore be taken from some part of the Company's lands."

With reference to this question a Committee of the House of Commons appointed in 1844, to enquire into the state of New Zealand, and to enquire into the proceedings of the New Zealand Company, resolved *inter alia*:—

"That reserves ought to be made for the Natives interspersed with the lands assigned to settlers with suitable provision for regulating their alienation, and preserving the use of them for the Natives as long as may be necessary, and that those reserves ought not to be included in calculating the amount of land due to the Company."

Lord Stanley in a despatch to Governor Fitzroy, under date August 13th, 1844, in commenting on the report made by the Committee, says in allusion to the resolutions passed by them relative to Native reserves:—

"The Committee (see p. 11 of their report) lay great, and as it seems to me very just, stress upon the adoption of a good system of Native reserves. I agree with them in opinion that the Natives should be encouraged as far as possible to settle upon land reserved for them interspersed with the lands of European settlers, rather than large and detached blocks wholly isolated; but this is an object which can be only gradually accomplished, and which you must induce the Natives to adopt of their own accord, and to