

pre-emption, and by the cession of this right the Crown acquired a right to extinguish by purchase all such lands as the Natives should be disposed to alienate.

But if it is asserted that, in virtue of its prerogative, the Crown had a right to absorb the waste lands of the Natives for the public benefit, the engagement entered into with them for the right of pre-emption was a mere absurdity, as it was an undertaking on the part of the Crown to purchase that which already belonged to it, for unless there existed a right to sell there could be no right to purchase.

The intention of the Crown in acquiring the right of pre-emption, was to prevent the Natives injuring themselves by parting with their land for a nominal consideration to private individuals; but a practical injustice was unintentionally done them through the very means which were taken to afford protection, as they were deprived thereby of the privilege of offering their land to the highest bidder, and had no alternative left but to keep the land, or sell it at the Government price.

It may perhaps be argued in opposition to this, that the advantages the Natives have obtained by the occupation of New Zealand by the Europeans outweigh the value of their land, even if they had parted with all they did not require, without compensation, as they had neither means nor the knowledge to turn it to account. Furthermore, that they had no right to expect that their property should obtain a value which it could never have acquired otherwise than by the protection of the Crown, and that so long as they received the same price for it as they were disposed to accept before the Treaty of Waitangi, there is no cause to complain that an injustice has been done them.

Reference, however, to a Report on the Settlement of Land Claims laid before the House of Representatives in 1862 (D. No. 10), will show that the rate per acre paid by private individuals for the acquisition of Native land before the Proclamation of 1840, was higher per acre than the price since paid by the Government.

The Natives for many years past have been loud in their complaints against the Government for purchasing their land for a small sum, and re-selling it at a comparatively high rate to European settlers; and with a view to reconcile them to this system, they have been informed that the Crown merely receives the money so paid as a trustee for the public, to be applied for their benefit in the construction of roads and bridges, and the promotion of other works of public utility; but they are not slow to perceive that those advantages would still be theirs, even if they had received a more advanced price for the land.

There are persons who hold that justice does not concern human nature in general,—that it is a refinement very good and useful for civilized people,—but that it may be dispensed with to a great extent where uncivilized races are concerned; but even the least scrupulous will probably admit that a payment equal to the tenth of a penny per acre for a territory comprising some of the finest land in the South Island, and equal in size to Ireland, cannot be considered an equitable compensation to the original owners.

It would seem by a despatch dated 25th March, 1848, from Governor Grey to Earl Grey, having reference to a visit of the former to the Middle Island, and also to the tenor of the directions given to Lieut.-Governor Eyre respecting the purchase of the territory comprised within the Ngaitahu Block, that the settlement of the Native claims was intended to be made on the following basis,—viz., that ample reserves for the present and reasonable future wants should be set apart for the claimants and their descendants, and registered as reserves for that purpose, and after the boundaries of those reserves had been marked out, then the right of the Natives to the whole of the remainder of the block should be purchased for £2,000, the payments to be spread over a period of four or five years. The amount fixed on was considered to be as large a sum as they could profitably spend, or was likely to be of any benefit to them.

The most important consideration that arises in the colonization of a country inhabited by a race like the Maoris, is, how to give them a substantial equivalent for the lands they surrender; as a payment in perishable articles, or even in money to be spent in such articles, cannot be considered a fair equivalent for a possession so valuable as the soil. The most equitable mode of payment, and one that could have been easily effected at the time, would have been to appropriate a certain proportion of the land ceded by the Natives as a provision for their advancement in the scale of social and political existence, which would have conferred on them the advantages they were fully entitled to receive through the occupation of their former territory by the European community.

The advantage of this description of reserve is the production of an independent fund as a provision for the future wants of the Natives, besides securing to them a property continually increasing in value with the progress of the colony. Such reserves as these, with the advantages that would have accrued, would have been only a poor compensation to the owners of the Ngaitahu Block for the cession of so large a tract of fertile country for a meagre cash payment.

It will be found, on perusing the correspondence on the subject, that some of the details of the purchase were carried out at variance with the original intentions, and that instead of the reserves for the Natives being marked off as was contemplated, and then the remainder of the district purchased, the money was paid in the first place, and the reserves left to be determined at a future time, a plan which placed the Natives entirely in the hands of the Government as to the quantity of land to be set apart.

The extent ultimately appropriated to the purpose was 6,359 acres, a quantity that can hardly be considered to come under the meaning of “ample reserves for the present and future wants” of a population of 637 individuals, the number of Natives to be then provided for within the block. It is true that by the terms of the deed of purchase the Governor was empowered to set apart additional lands for the Natives when the country was surveyed, but even this condition was not fulfilled until May, 1868, a period of 20 years after the date of the engagement.

Besides the original sum of £2,000 paid in 1848, an additional amount of £300 was paid in 1860 to the Natives living on the western side of the Ngaitahu Block, for the extinction of their title over the country west of the main range of the island, extending from Milford Haven to Kaurangi, a point north of the River Buller.

The aggregate quantity of land set apart for the Natives within the boundaries of Kemp's purchase