

17. Lord Normanby's letter, however, contained the following specific instruction :—

You will, however, at the same time, take care to dispel any apprehensions which may be created in the minds of the settlers that it is intended to dispossess the owners of any property which has been acquired on equitable conditions and which is not upon a scale which must be prejudicial to the latent interests of the community.

18. At that time, though this position obtained for a few months only—until May, 1841—the proposed colony was placed as a dependency under the general administration of New South Wales, and, in accordance with Lord Normanby's letter, the Governor of New South Wales, with the advice of his Legislative Council, was instructed to appoint a Legislative Commission to investigate and ascertain what were the lands in New Zealand held by British subjects under grants from Natives, how far such grants were lawfully acquired and ought to be respected, and what may have been the price or other valuable considerations given for them. The Commissioners would make their report to the Governor, and it would then be decided by him how far the claimants or any of them might be entitled to confirmatory grants from the Crown and on what conditions such confirmation ought to be made.

19. The extent to which grants would be made by the Crown to the land-purchasers was a very important matter of public policy from the point of view of the due and proper administration of the country. This must be borne in mind when I come to consider the reason for, and the effect of, the schedule to the Lands Claims Ordinance, 1841.

20. The question of the Crown itself purchasing land from the Natives was also an important question of policy ; and, indeed, such purchases (as also the acquisition of the "surplus lands" out of the lands purchased by the "land-purchasers") were vitally necessary to the progress of the colony and the successful administration of Government. The question of direct Crown purchases was thus referred to in Lord Normanby's letter :—

Having, by these methods, obviated the dangers of the acquisition of large tracts of country by mere land-jobbers, it will be your duty to obtain, by fair and equal contracts with the Natives, the cession to the Crown of such waste lands as may be progressively required for the occupation of settlers resorting to New Zealand. All such contracts should be made by yourself, through the intervention of an officer expressly appointed to watch over the interests of the aborigines as their protector. The re-sales of the first purchases that may be made will provide the funds necessary for future acquisitions ; and, beyond the original investment of a comparatively small sum of money, no other resource will be necessary for this purpose. I thus assume that the price to be paid to the Natives by the local government will bear an exceedingly small proportion to the price for which the same lands will be re-sold by the Government to the settlers. Nor is there any real injustice in this inequality. To the Natives or their chiefs much of the land of the country is of no actual use, and, in their hands, it possesses scarcely any exchangeable value. Much of it must long remain useless, even in the hands of the British Government also, but its value in exchange will be first created, and then progressively increased, by the introduction of capital and of settlers from this country. In the benefits of that increase the Natives themselves will gradually participate.

That passage emphasizes the distinction, which becomes of importance when one comes to deal with any question of compensation, between the value of the land in aboriginal ownership (particularly before the assumption of British sovereignty) and its value subsequently after purchase by the Crown under the new conditions that might be expected to arise under a proper system of Government.

21. On the arrival of Captain Hobson in the Bay of Islands at the end of January, 1840, Proclamations were made by both Sir George Gipps, then Governor of New South Wales, and Captain Hobson, on the lines directed by the Marquis of Normanby. It was further proclaimed that all purchases of land in any part of New Zealand which might be made from any of the chiefs or Native tribes thereof after the date of the Proclamation would be considered as absolutely null and void and would not be confirmed or in any way recognized by Her Majesty. The Maori chiefs were also told prior to the Treaty of Waitangi being executed that the Governor had not come to deprive