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NEW ZEALAND.

NATIVE TRUST OFFICE.
NATIVE RESERVES IN WELLINGTON AND NELSON UNDER
THE CONTROL OF THE NATIVE TRUSTEE
(REPORT ON).

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PREFACE.

THE object of this report is to place on record the history of those Native lands which were set apart by the New Zealand Company in 1840 as reserves for the benefit of the “aboriginal chiefs, their tribes and heirs for ever.”

The history of the New Zealand Company’s reserved “tenths” is bound up in the history of the New Zealand Company, which in turn forms an important chapter in the history of New Zealand. The man who planned this system of Native reserves was the man who founded the New Zealand Company and forced the British Government into annexing New Zealand—that great colonizer, Edward Gibbon Wakefield. He foresaw the danger to which a great race of people would be exposed through the colonization of their country, unless sufficient lands were reserved for their future benefit. His system of Native reserves was afterwards adopted by the New Zealand Government in their purchases of land from the Maoris.

From a mass of official papers, documents, and other records an endeavour has been made to trace the history of these reserves from their origin down to their present-day management.

Wellington, 26th March, 1929.

R. L. JELlicoe.

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THE NEW ZEALAND COMPANY'S NATIVE RESERVES.

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CHAPTER I.—INTRODUCING THE COMPANY AND ITS NATIVE POLICY.

1. THE IDEALS OF EDWARD GIBBON WAKEFIELD.

It is necessary for the clear understanding of the origin and history of Native reserves and reserved "tenths" to turn back for a brief space to the beginning of the nineteenth century, when the first attempts were made to colonize New Zealand. Prior to 1826 New Zealand was frequented, as regards the European race, by two classes of immigrants—the missionaries, who began their operations in 1814 under Samuel Marsden, and the wandering settlers, chiefly deserters from whaling-ships and escaped convicts from New South Wales and Van Diemen's Land (Tasmania), who made their homes on scattered spots among the Maori tribes.

The first attempt to colonize New Zealand occurred in the year 1825, when the first New Zealand Company⁽¹⁾, having amongst its members Lord Durham, Colonel Torrens, and Russell Ellice, was formed in London. This Company despatched two vessels to New Zealand, and bought lands at the mouth of the Thames and at Hokianga, but was forced to abandon its plan for want of the promised means of protection. The lands acquired subsequently became the property of the New Zealand Company of 1839.

The third decade of the last century was a time of depression for Great Britain. The high price of grain, due to the Corn Laws, was not only causing much suffering among the poorer classes, but was injuring trade. A vigorous oversea policy was most needed to provide for the surplus population and to relieve the distress, which was widespread; but although large sums had been voted to assist emigration very little had been achieved beyond putting into practice schemes for settling paupers in Canada and in other colonies. Politicians were busy with matters of parliamentary reform, and the colonial question was usually considered in relation to the convict question. Those great colonizing days of the Pilgrim Fathers were almost forgotten.

In the year 1829 the subject of colonization was revived by a new school of thinkers and writers, foremost among whom was Edward Gibbon Wakefield, who in his "Letter from Sydney," published 1829, pointed to the absence of any attempt to direct colonial enterprise on scientific principles. He proposed to remedy this state of things by the sale of land in small quantities, at a sufficient price, and the employment of the proceeds as a fund for promoting emigration.

In 1830 Wakefield founded the colonization society which had for its object the development of the Wakefield theory on systematic colonization. Associated with him were John Stuart Mill, Charles Buller, Sir William Molesworth, and other reformers, and publicity was given to their aims by Rintoul, of the *Spectator*. To Wakefield was due the chief merit in restoring Britain's colonial policy.

"He saw, and made the commonplace people about him see, that colonization was a national work worthy of system, attention, and the best energies of England. The empty territories of the Empire were no longer to be treated only as gaols for convicts, fields for negro slavery, or even as asylums for the persecuted or refuges for the bankrupt and the social failures of the Mother-country. To Wakefield the word "colony" conveyed something more than a backyard into which slovenly Britain could throw human rubbish, careless of its fate so long as it might be out of sight. His advocacy revived 'Ships, Colonies, Commerce!' as England's motto."⁽²⁾

The society's activities were directed principally to South Australian affairs, but in 1836 Wakefield's attention was turned towards New Zealand as a desirable field for colonization.

In 1837 the New Zealand Association was formed in London, which had among its members Mr. Francis Baring, M.P.; John Lambton (afterwards Earl of Durham); Mr. William Hutt, M.P.; and Sir William Molesworth, M.P. The aim of the Association was to colonize New Zealand in a manner which would prove beneficial to the Native inhabitants as well as to the settlers, and with this end in view a charter was solicited from the British Government. The moving spirit of the enterprise was Edward Gibbon Wakefield, who in his evidence before the Select Committee appointed by the House of Commons in 1840 to inquire into the statements contained in the petition of merchants, bankers, and shipowners of the City of London respecting the colonization of New Zealand⁽³⁾ explained that the Association was formed for the purpose of obtaining, if possible, from Parliament some regulation both for the colonization and the government of the islands, to take the place of the irregular practices which were then on foot. At first the Imperial Government was inclined to favour the Association, but later difficulties arose. The Church Missionary Society, which had attained to a position of great influence, was strongly opposed to the Association and its aims, and among the lay members on its committee was Sir James Stephen, Under-Secretary for the Colonies. Lord Glenelg, the Colonial Secretary, no doubt influenced by the Society, raised objections to the plans of the Association, but finally agreed to the granting of a charter, provided its members would form themselves into a joint-stock company having a monetary interest in the venture. This condition was not acceptable to the

(1) New Zealand Company's First Report, 14th May, 1840.

(2) "The Long White Cloud," 3rd ed., by W. P. Reeves.

(3) House of Commons Report on New Zealand, 1840.

directors of the Association, who had made it the very foundation of their scheme that they should have no pecuniary interest in it, and they declined to agree. The Association then sought legislation, and in June, 1838, a Bill⁽¹⁾ embodying its objects was introduced into Parliament by the chairman, Mr. Francis Baring, M.P. The Bill, however, was opposed by the Ministry and thrown out in the House of Commons by a large majority. On the rejection of the Bill the New Zealand Association, realizing that all hope of its scheme in its original shape being adopted was at an end, decided to dissolve and reconstitute itself as a joint-stock company.

2. FLOATING THE NEW ZEALAND COMPANY.

In the first report of the directors of the New Zealand Company is described as follows the happenings which led to the formation of the Company :—

“ On the dissolution of the Association some of its members formed a plan, according to the suggestion of His Majesty’s Government, for the prosecution of its leading objects by means of a joint-stock company. On the 29th August, 1838, a private copartnership was established under the name of the New Zealand Colonization Company, which gradually increased in strength, until, in the spring of the year 1839, it had raised funds sufficient to purchase an extensive territory in New Zealand (principally surrounding the harbours of Hokianga and Kaipara, in the Northern Island), and to fit out a preliminary expedition for surveying the coasts, making further purchases, and preparing for the early arrival of a body of settlers. The partners by whom these objects had been effected agreed to transfer their interests to a more extended company in consideration of receiving in such new company an equivalent amount of stock, to be determined by arbitration; and they have accordingly assigned the whole of their property, rights, and interests of every description to the present proprietary. On the 2nd May, 1839, the copartnership called the ‘New Zealand Colonization Company’ ceased to exist, and the first prospectus of the ‘New Zealand Company,’ called for a time the ‘New Zealand Land Company,’ was issued to the public.”

The New Zealand Company was, therefore, the result of the union of three distinct associations previously existing with similar views—viz., the New Zealand Company of 1825, the New Zealand Association of 1837, and the New Zealand Colonization Company of 1838. To these interests were added the subscriptions of a new body of proprietors, whereby the Company acquired a capital more than ample for the prosecution of its objects.

The New Zealand Company was constituted on the 2nd May, 1839, with a nominal capital of £400,000 in 4,000 shares of £100 each, subsequently reduced to £100,000 in 4,000 shares of £25 each. Its Governor was the Earl of Durham, and its Court of Directors included Joseph Somes (Deputy Governor), Lord Petrie, J. W. Buckle, Russell Ellice, William Hutt, M.P., G. Lyall, S. Majoribanks, Alex. Nairne, G. Palmer, M.P., J. Pirie, Sir J. Sinclair, M.P., John Abel Smith, M.P., W. Thompson, M.P., Colonel Torrens, J. E. Boulcott, Sir Henry Webb, T. A. Hankey, Arthur Willis, and Sir W. Molesworth, M.P.—gentlemen whose names to-day are perpetuated in various ways in the Dominion. Behind the Company there still stood Edward Gibbon Wakefield, although his name did not appear on its Court of Directors until 1840. Wakefield had joined the Colonization Company soon after its formation, and had taken a leading part in its operations, and in the new Company he took no less than one hundred shares.

It was soon ascertained that the Colonial Office was as much opposed to the New Zealand Company as to the Association. On the 4th March, 1839, Mr. Standish Motte, chairman of the Colonization Company, wrote to the Marquis of Normanby, who had succeeded Lord Glenelg as Secretary of State for the Colonies, pointing out that the conditions required by Government had been complied with, and asked for recognition of the Company. The Colonial Office in its reply stated that⁽²⁾—

“ As your letter insists upon the offer made by Lord Glenelg to a body of gentlemen associated together for a similar purpose in the year 1838, and claims as a matter of right the fulfilment of that offer, Lord Normanby thinks it necessary to apprise you distinctly that he cannot acknowledge the existence of any such rights on the side of the projected company, or any such obligation on the side of Her Majesty’s Government. The offer of 1838 was distinctly rejected by those to whom it was made, and under the circumstances Lord Normanby would hold himself entirely unfettered by such offer.”

Further correspondence with the Colonial Office soon convinced the Company that no help was to be expected from the Government, and the directors then decided to establish settlements in New Zealand without the sanction of the Crown. Preparations were made to despatch the barque “Tory,” 382 tons burden, with a preliminary expedition, under the direction of an agent, for the purpose of acquiring land from the Natives, and preparing for the early arrival of a body of settlers from England.

3. DESPATCHING THE “TORY.”

The leadership of the expedition was entrusted to Colonel William Wakefield, of Her Majesty’s Forces, and a brother to Edward Gibbon. Colonel Wakefield, who had just returned to England after a period of distinguished service in Spain and Portugal, was appointed Principal Agent of the Company. The “Tory” was commanded by Captain Chaffers, R.N.; the ship’s surgeon was Mr. Dorset, and other members of the expedition were Mr. Heaphy (afterwards Major, V.C.), a draftsman; Dr. Dieffenbach,

(1) “A Bill for the Provisional Government of British Settlements in the Islands of New Zealand.”

(2) Great Britain—Correspondence relating to New Zealand, 1840, p. 21.

of Berlin, a naturalist; Edward Jerningham Wakefield⁽¹⁾ son of Edward Gibbon, then a youth of nineteen years; and an interpreter, Nayti⁽²⁾ (Ngati), a New Zealand chief who had resided in England for two years and had acquired the English language and habits⁽³⁾.

The news that New Zealand was about to be colonized was by this time attracting speculators, known as "land-sharks"⁽⁴⁾ from New South Wales, who flocked to the country and bought large tracts of land from the Natives for a trifling consideration. Wakefield, in describing the operations of these gentlemen, stated that⁽⁵⁾—

"Adventurers go from New South Wales and Van Diemen's Land and make a treaty with a Native chief, a tripartite (triplicate) treaty, the poor chief not understanding a single word about it, but they make a contract upon parchment, and with a great seal, and for a few trinkets and a little gunpowder they obtain land."

Other schemes for colonization were also on foot in England, and the directors, realizing that time was precious, hurriedly completed their arrangements for the despatch of the preliminary expedition. On the 29th April, 1839, the Marquis of Normanby was advised that the "Tory" was about to sail for New Zealand, and he was requested to furnish Colonel Wakefield with letters of recommendation to the Governors of New South Wales and Van Diemen's Land⁽⁶⁾. His Lordship, in reply, expressed himself as being surprised to learn, for the first time, that a body of Her Majesty's subjects were about to proceed to New Zealand, to purchase large tracts of land there, and to establish a system of government independent of the authority of the British Crown.

"It is impossible" (said his Under-Secretary), "that His Lordship should do any act which could be construed into a direct or indirect sanction of such a proceeding. Lord Normanby thinks it necessary that the parties concerned should be distinctly apprised that Her Majesty's Government cannot recognize the authority of the agents whom the Company may employ; and that if, as is probable, the Queen should be advised to take measures without delay, to obtain cession in sovereignty to the British Crown of any parts of New Zealand which are or shall be occupied by Her Majesty's subjects, officers selected by the Queen will be appointed to administer the executive Government within any such territory. Lord Normanby wishes it to be further understood that no pledge can be given for the future recognition by Her Majesty, of any proprietary titles to land within New Zealand which the Company or any other person may obtain by grant, or by purchase, from the Natives. Under the circumstances Lord Normanby must decline to furnish the Company with the introductory letters for which they apply."⁽⁷⁾

None the less, the "Tory," armed with eight guns and laden with articles of merchandise suitable for barter with the Natives for land, sailed from Gravesend on the 5th May, 1839. She was followed on the 1st August by the barque "Cuba," 273 tons, which conveyed the surveying staff under the direction of the Surveyor-General, Captain William Mein Smith, of the Royal Artillery, described as an officer of the first ability and of great energy.⁽⁸⁾ Captain Smith had under him three assistant surveyors and twenty-two men, and full instructions were furnished him in regard to the surveys and to the laying-out of the plan of the town. The "Cuba" carried a further cargo of goods for the purpose of barter, and to provide against the possible contingency of any accident to the "Tory." As the "Tory" cast anchor at Plymouth, her last port of call before undertaking her long voyage to Cook Strait, New Zealand, Dr. Garnett, in his life of Edward Gibbon Wakefield, describes how—

"A stout, fresh-complexioned, middle-aged gentleman left London in a post-chaise driving rapidly to the south-west. This was no other than Edward Gibbon Wakefield, whom rumours had reached that Government intended to stop the departure of the vessel. He urged the 'Tory' off, and she sailed unmolested on 12th May, 1839. Wakefield's vigorous action was the fitting crown of a series of vigorous actions which won for our Queen as bright a jewel as any of her diadem, and saved the Britain of the South from becoming a French convict settlement, a nuisance hateful to God and man, only to be abated at the cost of a bloody war."⁽⁹⁾

4. THE WELLINGTON PROSPECTUS.

On the 1st June, 1839, the Company offered for sale a limited portion of the lands to be comprised within the first and principal settlement to be founded. The following extract from the terms of sale, dated the 1st June, 1839, express the conditions under which these preliminary sales were made⁽¹⁰⁾ :—

"The object of the Company will be to determine the place of their first settlement, and to insure its becoming the commercial capital of New Zealand, and, therefore, the situation where land will soonest acquire the highest value by means of colonization. Within this district the site of the company's chief town will be carefully selected; after which, out of the whole territory, a further selection will be made of the most valuable portion as respects fertility, river frontage, and vicinity to the town. The site of the town will consist of 1,100 acres, exclusive of portions marked out for general use, such as quays, streets, squares, and public gardens. The selected country lands will comprise 110,000 acres.

(1) Afterwards well known as the author of "Adventure in New Zealand."

(2) Spelt "Nayti" in parliamentary papers.

(3) "Information relative to New Zealand," by John Ward, Secretary to the New Zealand Company, 2nd ed.; 1840.

(4) "Colonization of New Zealand," by Dr. J. S. Marais, p. 123.

(5) Great Britain—Parliamentary Papers, 1836, p. 614.

(6) Appendix to New Zealand Company's 12th Report, p. 13D; and Great Britain—Correspondence relating to New Zealand, 1840.

(7) App. 12th Rep.; and Great Britain—Correspondence relating to New Zealand, 1840.

(8) New Zealand Company's 1st Report, p. 13.

(9) "Builders of Great Britain—Edward Gibbon Wakefield," by Dr. Garnett, p. 154.

(10) New Zealand Company's 1st Report, 14th May, 1840.

"The selected lands will be divided into 1,100 sections, each section comprising one town acre, and 100 country acres; 110 sections will be reserved by the Company, who intend to distribute the same as private property amongst the chief families of the tribe from which the lands shall have been originally purchased. The remainder, being 990 sections of 101 acres each, are now offered for sale in sections, at the price of £101 for each section or £1 per acre.

"The Company will issue orders which will entitle the holder to select one town acre and a country section of 100 acres according to a priority of choice to be determined by lot. The lots for priority of choice will be drawn in London.

"An officer of the Company will draw in the same manner for the 110 sections reserved and intended for the Native chiefs, and the choice of these reserved sections will be made by an officer of the Company in the settlement, according to the priority so determined."

5. THE ORIGIN OF RESERVES.

It will be seen that in the terms of sale provision was made for the reservation of a portion of land, equal to one-tenth, for the benefit of the Native inhabitants. The principle of reserving lands for Natives was first laid down by the New Zealand Association of 1837, which sought a method to preserve the Native population from degradation. The policy of the Association was to make provision for the chiefs, and their families, whose territory had been ceded, by reserving, to be held in trust for their use and benefit, a certain proportion of the land with which they had parted⁽¹⁾. In his evidence before the Select Committee on New Zealand, 1840⁽²⁾, Edward Gibbon Wakefield, in outlining the Company's Native policy, stated,—

"The only mode in which the land could be acquired was by purchase from the Native possessors, and, although such purchases had already been made by the Church Missionary Society, many members of the Company were reluctant to negotiating with savages who were quite ignorant of the value of what they were parting with, and they only adopted this course because the conduct of the Government precluded them from taking the course which they had in their original plan prepared—that no individuals should be allowed to purchase land from the Natives of New Zealand, but that land should be acquired from them only by a responsible officer of the Government.

"Being compelled, however, by circumstances either to abandon the persons whose private interests were so much at stake in the progress of the scheme, or to proceed by way of purchase from the Natives, they instructed their agents, whom they despatched to New Zealand, to pay but little attention to the subject of the first consideration-money for the land, because they regarded all the payments that had been made in New Zealand by missionaries and others only as little more than nominal; and they laid down a plan of reserves of land for the Natives which they hoped would become in the long-run a very valuable consideration indeed. They determined to reserve a portion, equal to one-tenth of all the land which they should acquire, for the Native families. This matter was fully explained to the Natives before any purchases were made, and this was conceived to be the only true consideration for the land.

"The object in reserving these lands was to preserve the Native race. They believed that it would be impossible to preserve the Native race, that the Native race in New Zealand would undergo the same fate which had attended other people in their situation, unless the chief families could be preserved in a state of civilization in the same relative superiority of position as they before enjoyed in savage life; and with this view the Company was desirous of investing them with property.

"Reserves for Natives are very common things; they have been going on for three hundred years, and have never done any good yet. They were made by the old colonies in America, and they have been made since by the United States, who have been in the habit of reserving a large block of land, declaring it to be a Native district, and forbidding the whites to settle within that district. The effect of that has been to isolate the Natives from the whites, and preserve them in a state of barbarism. The Company, having paid great attention to this subject, came to the conclusion that if the inferior race of New Zealand can be preserved at all in contact with civilized men it can only be by creating in civilized society a class of Natives who would retain the same relative superiority of position which they had enjoyed in savage life. They determined, therefore, if possible, to make a Native aristocracy, a Native gentry, and for that purpose to reserve lands as valuable property."

6. COLONEL WAKEFIELD'S INSTRUCTIONS.

From the beginning the Company had declared its intention of dealing fairly, and even benevolently, with the Natives of New Zealand, and the instructions issued to Colonel Wakefield prior to his sailing breathe the spirit of justice and humanity. The objects of the expedition were divided into three distinct classes—firstly, the purchase of lands for the Company; secondly, the acquisition of general information as to the country; and, thirdly, preparations for the formation of settlements under the auspices of the Company. Dealing with the purchase of lands, the directors in these instructions stated that—

"The chief difficulty with which you may have to contend is that of convincing the Natives that the expedition under your orders has no object hostile to them. They are necessarily suspicious in consequence of the ill treatment which they have often received

(1) "British Colonization of New Zealand," by Wakefield and Ward, 1837.

(2) House of Commons Report on New Zealand, 1840.

from Europeans. We recommend that you should on every occasion treat them with the most entire frankness, thoroughly explaining to them that you wish to purchase the land for the purpose of establishing a settlement of Englishmen there; and you will abstain from completing any negotiation for a purchase of land until this, its probable result, shall be thoroughly understood by the Native proprietors and by the tribe at large. Above all, you will be especially careful that all the owners of any tract of land which you may purchase shall be approving parties to the bargain, and that each of them receives his due share of the purchase-money. You will fully explain that the Company intends to dispose of the property to individual settlers expected from England, and that you purchase, if at all, on the same terms as have formed the conditions of private bargains for land in other parts of the Islands.

“But in one respect you will not fail to establish a very important difference between the purchases of the Company and those which have hitherto been made by every class of buyers. Wilderness land, it is true, is worth nothing to its Native owners, or worth nothing more than the trifle they can obtain for it. We are not, therefore, to make much account of the inadequacy of the purchase-money according to English notions of the value of land. The land is really of no value, and can become valuable only by means of a great outlay of capital on immigration and settlement. But at the same time it may be doubtful whether the Native owners have ever been entirely aware of the consequences that would result from such cessions as have already been made to a great extent of the whole of the lands of a tribe. Justice demands not merely that these consequences should be as far as possible explained to them, but that the superior intelligence of the buyers should also be exerted to guard them against the evils which, after all, they may not be capable of anticipating. The danger to which they are exposed, and which they cannot well foresee, is that of finding themselves entirely without landed property, and therefore without consideration, in the midst of a society where, through immigration and settlement, land has become a valuable property. Absolutely they would suffer little or nothing from having parted with land which they do not use and cannot exchange; but relatively they would suffer a great deal, inasmuch as their social position would be very inferior to that of the race who had settled amongst them and given value to their now worthless territory. If the advantage of the Natives alone were consulted, it would be better perhaps that they should remain for ever the savages which they are. This consideration appears never to have occurred to any of those who have hitherto purchased lands from the Natives of New Zealand. It was first suggested by the New Zealand Association of 1837; and it has great weight with the present Company. In accordance with a plan which the Association of 1837 was desirous that a legislative enactment should extend to every purchase of land from the Natives, as well past as future, you will take care to mention in every booka-booka [*pukapuka*], or contract for land, that a proportion of the territory ceded, equal to one-tenth of the whole, will be reserved by the Company and held in trust by them for the future benefit of the chief families of the tribe. With the assistance of Nayti [Ngati], who is perfectly aware of the value of land in England, and of such of the more intelligent Natives as have visited the neighbouring colonies, you will readily explain that after English immigration and settlement a tenth of the land will be far more valuable than the whole was before. And you must endeavour to point out, as is the fact, that the intention of the Company is not to make reserves for the Native owners in large blocks, as has been the common practice as to Indian reserves in North America, whereby settlement is impeded, and the savages are encouraged to continue savage, living apart from the civilized community, but in the same way, in the same allotments, and to the same effect as if the reserved lands had been purchased from the Company on behalf of the Natives. Whenever a settlement is formed, therefore, the chief families of the tribe will have every motive for embracing a civilized mode of life. Instead of a barren possession with which they have parted, they will have property in land intermingled with the property of civilized and industrious settlers, and made really valuable by that circumstance. And they will thus possess the means, and an essential means, of preserving in the midst of a civilized community the same degree of relative consideration and superiority as they now enjoy in their own tribe.

“The intended reserves of land are regarded as far more important to the Natives than anything which you will have to pay in the shape of purchase-money. At the same time, we are desirous that the purchase-money should be not less adequate, according to English notions of the value of land, than has been generally the case in the purchases of territory from the New-Zealanders. Some of the finest tracts of land, we are assured, have been obtained by missionary catechists and others who really possessed nothing, or next to nothing. In case land should be offered to you for such mere trifles as a few blankets or hatchets, which have hitherto been given for considerable tracts, you will not accept the offer without adding to the goods required such a quantity as may be of real service to all the owners of the land. It is not intended that you should set an example of heedless profusion in this respect; but the Company are desirous that in all their transactions with the Natives the latter should derive some immediate and obvious benefit by the intercourse.”⁽¹⁾

The directions given to the Company's Principal Agent have been characterized as “models of wisdom,” and show that the directors were sincere in their desire to deal justly with the Natives. They give practical effect to the ideals of Edward Gibbon Wakefield, and grapple with the difficulty

⁽¹⁾ Correspondence with the Secretary of State relative to New Zealand, 1840.

in treating fairly with an uncivilized race. When a Select Committee was appointed in 1844 to inquire into the state of the Colony of New Zealand, and into the proceedings of the New Zealand Company, one of the resolutions submitted to the House of Commons was,—

“That the principles in which the New Zealand Company have acted in making the reserves for the Natives, with a view to their ultimate as well as present welfare, and in making suitable provision for spiritual and educational purposes, are sound and judicious, tending to the benefit of all classes.”⁽¹⁾.

Among other important points, Colonel Wakefield was reminded that Cook Strait formed part of the shortest route from the Australian Colonies to England, and the best harbour in that channel must inevitably become the most frequented part of colonized New Zealand. So far as the directors were informed, Port Nicholson appeared superior to any other. Colonel Wakefield was also to consider any act of aggression or affront from any of the Company's servants towards any Native of New Zealand as a sufficient reason for immediate dismissal from the Company's service, and in the most public manner. Unfortunately, events will show that the Principal Agent was forced by circumstances to act so quickly that he was unable—even had it been possible—to carry out his instructions in their entirety in regard to purchases from the Natives, and this was the cause of all the Company's troubles when the settlers began to arrive a few months later.

7. THE COMPANY AT WORK IN ENGLAND.

While the “Tory” was ploughing her way to the Antipodes the Company was busy in England. A strong staff was engaged; agents were appointed to sell shares and land orders in most of the large towns of Great Britain; committees were established in Glasgow and Dublin; the directors made full use of the press, and, in fact, financed a publication known as the *New Zealand Journal*⁽²⁾; and huge placards were posted up in London and the provinces informing the public of expected sailings of ships and on what terms labourers could obtain free passages. The weak point from the purchaser's point of view was that the sections offered did not then even exist on paper. All that could be acquired was an order entitling the holder to select an area of land according to a priority of choice to be determined by lot. No one knew the kind of land he was buying.

The plans adopted by the Company for the foundation of their first settlement were received with remarkable favour by the British public. Dealing with the preliminary sales, the directors in their first report announced that⁽³⁾—

“The lands comprised in the preliminary sales were, it has been seen, offered to the public by anticipation. But so strong was the public confidence in your directors, that within a few weeks the whole of the preliminary lands had been disposed of, and the Company had realized a land revenue of £99,900, of which 75 per cent. was pledged to be appropriated to the sole purpose of emigration. The priority of choice of the purchasers was determined by a ballot held at the Company's office, in the presence of your directors, on the 29th July, 1839, the Native reserves partaking of the same benefits as other sections from the chance of lots.

The following is the list of orders of choice for the selection of Native-reserve “tenths”: Nos. 7, 15, 20, 22, 28, 51, 54, 68, 73, 100, 106, 109, 123, 131, 138, 150, 151, 167, 173, 175, 185, 192, 193, 196, 197, 202, 214, 220, 223, 230, 237, 248, 254, 271, 272, 275, 281, 306, 319, 323, 337, 358, 375, 376, 415, 423, 459, 472, 475, 482, 484, 488, 493, 496, 516, 535, 540, 541, 552, 561, 564, 566, 571, 578, 580, 585, 587, 589, 590, 620, 622, 632, 638, 645, 646, 652, 675, 680, 688, 702, 704, 708, 721, 722, 728, 730, 733, 796, 787, 789, 805, 821, 854, 894, 899, 903, 929, 974, 1010, 1012, 1013, 1016, 1020, 1030, 1031, 1036, 1042, 1066, 1070, 1086: total 110⁽⁴⁾.

In consequence of the rapid disposal of the land contained in the preliminary sales, the directors issued a second prospectus on the 30th July, 1839, in which they announced their readiness to receive—

“Applications for country lands, to the extent of 50,000 acres in sections of 100 acres each, at the price of £100 per section or £1 per acre, to be paid in full, in exchange for the land orders, which will entitle the holders thereof or their agents to select country sections accordingly, either at the Company's principal settlement, or at Hokianga, Kaipara, Manukau, the border of the Thames, or any other part of the present or future territories of the Company, so soon as the requisite survey thereof shall have been completed. The holder will, therefore, select at pleasure, out of all the Company's territories which shall then be surveyed as country sections, a section of 100 acres for each land order, in the order in which the land orders shall be presented to the Company's resident officer in New Zealand⁽⁵⁾.”

No mention was made of reserves for Natives in these proposals.

“The first batch of colonists sailed on the 16th September, 1839, and it is no exaggeration to assert that it comprised a body of settlers who for intelligence and energy of mind, as well as for rank and character in society, have not been equalled since the days of the early colonization of North America⁽⁶⁾.”

(1) Extract from findings of Select Committee, House of Commons, appointed 1844.

(2) The editor was Mr. H. S. Chapman, afterwards Judge of the Supreme Court, at Wellington: “Early History of New Zealand,” by Dr. T. M. Hocken.

(3) New Zealand Company's 1st Report, 14th May, 1840.

(4) Great Britain—House of Commons Report on New Zealand, 1840, Appendix No. 12, p. 154.

(5) “Information relative to New Zealand,” Appendix VI, 2nd ed., by John Ward; 1840.

(6) *Ibid.*, p. 135.

The *Morning Chronicle* of the 16th published an account of the leave-taking ceremonies, and gave a graphic description of the scene at Gravesend prior to the departure of the first three ships—the “*Oriental*,” “*Aurora*,” and “*Adelaide*”—with nearly five hundred emigrants on board.⁽¹⁾ The same paper also referred to the foundation by the colonists of an “Association for Defence and the Administration of Justice.” British sovereignty had not yet been established in New Zealand, and the colonists, at the request of the directors, signed an agreement to a form of self-government which provided for the mustering and drilling of forces, and for the trial and punishment of offences according to the law of England. Diplomatic relations between the Colonial Office and the Company had been severed after the despatch of the “*Tory*,” but the Government now broke silence and demanded a copy of the agreement. The directors consulted counsel, and were dismayed to find that their action was illegal. As the colonists had already sailed, instructions were posted to Colonel Wakefield for the disbanding of the Association, and a copy of the letter was forwarded to the Colonial Office. One sentence is worthy of note⁽²⁾ :—

“In the Company’s settlement the law of England must be respected, even to the extent of inducing the settlers to abstain from adopting any means of enforcing the law of England.”

8. A MAN-OF-WAR WITHOUT GUNS.

Leaving for a moment the pioneers of Wellington embarked upon their long voyage southwards, and followed shortly after by the “*Duke of Roxburgh*,” “*Bengal Merchant*,” and “*Bolton*,”⁽³⁾ it is necessary to refer very briefly to those events which led up to the signing of the historic Treaty of Waitangi and the proclaiming of British sovereignty over New Zealand.

The absence of any law in New Zealand at the beginning of the last century attracted the worst elements of society, and escaped convicts, runaway sailors, beachcombers, and other desperadoes soon made their influence felt. The appointment of Mr. Kendall as Resident Magistrate in the Bay of Islands in 1814, the same year that the Rev. Marsden and his band of missionaries commenced their labours, was the first step in the direction of establishing some form of authority, but by 1830 lawlessness had increased to such an extent that New Zealand was in the throes of anarchy. The doings of the infamous Captain Stewart and the ghastly traffic in human heads were instances of crime and outrage. The representations of the missionaries and the petition by leading chiefs to King William IV led to the appointment in 1833 of Mr. James Busby as British Resident. Without any force to sustain his authority, except the moral influence of the missionaries, the Resident was powerless to prevent the wars of the Natives and the outrages committed by the white settlers, and his position has been summed up as that of “a man-of-war without guns.” Kororareka, the principal town, with its grog-shops and gambling-dens, was becoming a second Alsatia, and the iniquities of its inhabitants are vividly described by early writers. The dangers of French intervention and the claims of the Baron de Thierry resulted in the signing of the “Declaration of Independence of New Zealand” by thirty-five of the leading chiefs. In 1838 a Vigilance Committee was formed at Kororareka, then with a population of one thousand people, as a means of affording some protection to the residents both European and Native. Its form of justice, however, savoured strongly of Lynch law. In the same year a Committee of the House of Lords was set up to inquire into “the present state of affairs in New Zealand,” and the conclusion reached was that, while the extension of colonial possessions of the Crown was a question of public policy, support of the exertions which had already beneficially affected the rapid advancement of the religious condition of the aborigines afforded the best present hopes of their future progress in civilization. The powerful Church Missionary Society had sufficient influence at that time to sway the Colonial Office, and its lay secretary, Mr. Dandeson Coates, declared openly that he was opposed to the colonization of New Zealand upon any plan, and would thwart it by every means in his power.

9. PROCLAIMING BRITISH SOVEREIGNTY.

Pressure from New South Wales and the Colonization Association, together with the knowledge that a French colonizing company, La Compagnie Nanto-Bordelaise, was forming under the auspices of Louis Philippe to establish a settlement in New Zealand, forced Lord Glenelg, however, into suggesting that a Consul should be appointed, and with this suggestion the Foreign Office agreed. On the 13th June, 1839, the Colonial Office, in a despatch to the Treasury, stated that⁽⁴⁾—

“It is proposed that certain parts of the Islands of New Zealand should be added to the Colony of New South Wales as a dependency of that Government, and Captain Hobson, R.N., who has been selected to proceed as British Consul, will also be appointed to the office of Lieutenant-Governor.”

In July the full authority of the Treasury was conferred by the famous Treasury minute of the 19th July, 1839, which sanctioned an advance from the revenues of New South Wales on account of the expenses of the officer about to proceed to New Zealand as Consul⁽⁴⁾. In his instructions to Captain Hobson, dated the 14th August, 1839, Lord Normanby stated that the Ministers of the Crown had been restrained by high motives from engaging in such an enterprise, but circumstances entirely beyond their control had at length compelled them to alter their course⁽⁴⁾.

Captain Hobson reached Sydney in December, 1839, where the necessary oaths of office were administered to him by Governor Gipps, of New South Wales, and he was furnished with a small staff of Civil officers and advances of money to commence operations. Thus provided, he sailed for New Zealand and stepped on shore at Kororareka on the 29th January, 1840. He proceeded without

(1) “*Oriental*,” 506 tons, 154 passengers; “*Aurora*,” 550 tons, 148 passengers; “*Adelaide*,” 640 tons, 176 passengers. Table of sailings from John Ward’s “Information relative to New Zealand”; 1840.

(2) “New Zealand: its Political Connection with Great Britain,” by Miss J. I. Hetherington, M.A.

(3) “Information relative to New Zealand,” 2nd ed., by John Ward; 1840.

(4) Great Britain—Parliamentary Papers, 1840.

delay to obtain the assent of the Natives to the terms of a treaty acknowledging the Queen's authority over New Zealand, and for that purpose an assembly of chiefs was convened at Waitangi. On the 6th February, 1840, the historic Treaty of Waitangi was signed by forty-six chiefs in the presence of a large concourse of Natives. The Treaty contained three Articles:—

“Article the First.—The chiefs cede to Her Majesty the Queen of England, absolutely and without reservation, all the rights and powers of sovereignty which they respectively exercise or possess over their respective territories.

“Article the Second.—Her Majesty the Queen of England confirms and guarantees to the chiefs and tribes of New Zealand, and to the respective families and individuals thereof, the full, exclusive, and undisturbed possession of their lands and estates, forests, fisheries, and other properties which they may collectively or individually possess, so long as it is their wish and desire to retain the same in their possession. But the chiefs yield to Her Majesty the exclusive right of pre-emption over such lands as the proprietors thereof may be disposed to alienate, at such prices as may be agreed upon between the respective proprietors and persons appointed by Her Majesty to treat with them in that behalf.

“Article the Third.—In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her Royal protection, and imparts to them all the rights and privileges of British subjects.”

From Waitangi the Treaty was taken about the country by missionaries and Government agents, and before the end of June 512 signatures had been obtained to it. On the 21st May, 1840, Governor Hobson proclaimed British sovereignty over the North Island by right of cession, and over the two Southern Islands by right of discovery. New Zealand was now a portion of the British Empire.

CHAPTER II.—THE RESERVES AT WELLINGTON.

1. COLONEL WAKEFIELD'S PURCHASES.

Returning to the doings of the Company, the scene changes to New Zealand waters, where the preliminary expedition sighted land near Cape Farewell on the 16th August, 1839, ninety-six days from Plymouth, a good passage having been made by the “Tory” without the sight of land, except a distant glimpse of the Canaries.⁽¹⁾ The course was set for Queen Charlotte Sound, and on the following day the “Tory” dropped anchor in the entrance to Ship's Cove, near to the spot where Captain Cook had found a haven in his numerous visits to the harbour.⁽²⁾ Here Colonel Wakefield enlisted the services of “Dicky” Barrett, a whaler, to act as guide and interpreter, and in a few weeks' time proceeded to Port Nicholson, where he landed on the 20th September, 1839.

In accordance with his instructions, Colonel Wakefield at once proceeded to negotiate with the Natives for the purchase of land. Koreros were held at Pito-one (Petone), Ngauranga (Ngahauranga), and Tearo (Te Aro), the two principal chiefs of the Ngatiawas—Epuni (Te Puni) and Warepori (Wharepouri)—expressed their willingness to sell; others, although urged to refrain⁽³⁾ by Henry Williams, the missionary, followed suit when they saw the tempting display of goods—especially the muskets—spread out on the deck of the “Tory,” and on the 27th September the first deed of purchase, comprising Wanga-Nui-Atera (Whanganui-a-Tara—commonly called Port Nicholson) and a piece of territory “forty or fifty miles in length by twenty-five or thirty in breadth,”⁽⁴⁾ was executed by sixteen chiefs, who made their marks in the presence of Richard Barrett, Thomas Lowry (chief mate), and Nayti⁽⁴⁾. On the 30th September, 1839, the New Zealand flag was hoisted at a spot close to the Pito-one Pa, a salute of twenty-one guns was fired from the “Tory,” hakas were performed by the assembled Natives, and formal possession was taken of the harbour and district for the New Zealand Company amidst the hearty cheers of the mixed spectators⁽²⁾.

Colonel Wakefield next proceeded to Kapiti Island to purchase the lands of that crafty savage Rauparaha, of his fighting lieutenant, Rangihaeata, of Te Hiko, and other chiefs of the Ngatitoas, and on the 25th October, 1839, completed his second deed of purchase, comprising territory from the 43rd degree of latitude, including the Nelson District, and extending northward to Wanganui and Taranaki. The third negotiation was with the chiefs of the Ngatiawas residing in Queen Charlotte Sound, and on the 8th November the Principal Agent completed his purchase with the Natives there, which covered the same territory comprising the second deed of purchase. These dealings completed, Colonel Wakefield claimed to have acquired for the Company an area of about twenty million acres, extending from the 39th to the 43rd degree of latitude on the west coast, and from the 41st to the 43rd degree on the east coast. The price paid for this huge area of land was a varied assortment of trade goods, ranging from blankets to jews' harps, the much-prized guns (which later were turned

(1) Colonel Wakefield to the Secretary of the Company, 1/9/39: App. 12th Rep.

(2) “Adventure in New Zealand,” by E. J. Wakefield; 1908.

(3) Extract from Colonel Wakefield's journal, 24/10/39, App. 12th Rep.

(4) Taken from copy of original deed of purchase.

against the Company's own settlers), slates, shoes, and sealing-wax, and sixty red night-caps. The complete list of goods, valued at something less than £9,000, which the Natives received in full and just payment is as follows⁽¹⁾ :—

220 muskets	92 pairs trousers
15 fowling-pieces	60 red night-caps
16 single-barrelled guns	300 yards cotton duck
8 double-barrelled guns	200 yards calico
81 kegs gunpowder	300 yards check
2 casks ball cartridges	200 yards print
4 kegs lead slabs	40 dozen pocket handkerchiefs
200 cartouche-boxes	2 suits superfine clothes
300 tomahawks	1 dozen umbrellas
300 red blankets	9 dozen pair shoes
2 tierces tobacco	6 dozen slates
15 cwt. 3 qr. tobacco	600 pencils
148 iron pots	17 dozen looking-glasses
6 cases soap	23 dozen pocket-knives
2 cases pipes	19 dozen pairs scissors
10 gross pipes	1 dozen hats
6 dozen spades	6 lb. beads
120 steel axes	100 yards ribbon
3 dozen and 10 adzes	1 gross jews' harps
6 dozen hoes	3 dozen razors
60 pipe tomahawks	3 dozen shaving boxes and brushes
24 bullet-moulds	17 dozen dressing-combs
3,200 fish-hooks	1,500 flints
23 dozen shirts	11 quires cartridge-paper
92 jackets	1 dozen sticks sealing-wax.
1 dozen flushing coats	

For a time relations with the Maoris were of a friendly nature, but trouble soon arose when the surveyors came on the scene, and Colonel Wakefield discovered, to his dismay, that there was a serious flaw in the title to his twenty million acres. He found that a chief could not deal with tribal lands as he pleased—that all the owners were entitled to a say in its disposal, and that it was even necessary to obtain consents from absentee owners. Soon there were cases of repudiation, and claims for compensation by families who considered they had been overlooked at the original sales; and this was the beginning of the Company's troubles in New Zealand, for, as time passed on, these claims and repudiations increased. Colonel Wakefield's instructions from the Company were clear and explicit, and in his journal he stated his intention "of acting in the most liberal manner in his transactions." Speed was essential, however, in order to forestall the Sydney speculators, who had heard of his coming, and to provide land for the settlers who would soon be arriving. Unfamiliar with the intricacy of Native custom, and with no plans to guide him, Colonel Wakefield commenced his negotiations with the chiefs. With the knowledge that a shoal of land-sharks was following him, he worked with feverish haste. His only counsel was a whaler and a half-educated Native lad. He conceived the bold but risky plan of purchasing land by parallels of latitude, and within three months he had acquired, or thought he had acquired, millions of acres on both sides of Cook Strait—an area, in fact, larger than the Provincial Districts of Wellington and Nelson. He did admit that within this vast area there were still a few interests to be acquired, although he did not anticipate any difficulty in this respect; and there was also the question of previous purchases made in the neighbourhood of the Strait, but these were, he felt assured, "too insignificant to interfere with the views of the Company."⁽²⁾ "In purchasing," he wrote, "on the large scale I have done in this transaction—in marking the boundaries of territory acquired, upon the fullest and most satisfactory explanation and examination, by parallels of latitude—I conceive that I have obtained as safe and binding a title as if the subject of negotiation had been but a single acre."⁽²⁾

Commenting on these purchases, the Hon. Pember Reeves says :—

"Nothing can justify the magnitude of Colonel Wakefield's claims, or the payment of firearms for the land. But at the bottom of the mischief was the attempt of the missionaries and officials at Home to act as though a handful of savages—not then more, I believe, than 65,000 in all, and rapidly dwindling in numbers—could be allowed to keep a fertile and healthy archipelago larger than Great Britain. The haste, the secrecy, the sharp practice of the New Zealand Company, was forced on the Wakefields by the mulish obstinacy of careless or irrational people. Their land-purchasing might have taken place legally, leisurely, and under proper Government supervision had missionaries been business-like, had Downing Street officials known what colonizing meant, and had Lord Glenelg been fitted to be anything much more important than an irreproachable churchwarden."⁽³⁾

2. THE THREE DEEDS.

The first deed of purchase, dated the 27th September, 1839, contained the following clause :—

"And the said William Wakefield, on behalf of the Company of London, does hereby covenant, promise, and agree to and with the said chiefs that a portion of the land ceded by them, equal to a tenth part of the whole, will be reserved by the governors, directors, and shareholders of the Company, and held in trust by them for the future benefit of the said chiefs, their families and heirs, for ever."

⁽¹⁾ Compiled from copies of actual deeds of purchase.

⁽²⁾ Extract from Colonel Wakefield's journal, 24/10/39.

⁽³⁾ "The Long White Cloud," 3rd ed., by W. P. Reeves, p. 142.

The second and third deeds, dated the 25th October and 8th November respectively, also contain a promise of Native reserves, but the quantity is not specified. The clause in these two deeds reads as follows :—

“ And the said William Wakefield, on behalf of the said governors, and directors, and shareholders of the New Zealand Land Company, London, their heirs, administrators, and assigns, for ever, does hereby covenant, promise, and agree to and with the said chiefs in manner following: that is to say, that a portion of the land ceded by them, suitable and sufficient for the residence and proper maintenance of the said chiefs, their tribes and families, will be reserved by the said governors, and directors, and shareholders of the New Zealand Land Company, of London, and held in trust by them for the future benefit of the said chiefs, their families, tribes, and successors, for ever.”⁽¹⁾

Every endeavour seems to have been made to explain the nature of these reserves to the Natives. Referring to his negotiations with the Port Nicholson chiefs, Colonel Wakefield wrote in his journal on the 24th September, 1839 :—

“ They had previously had fully explained to them that a reserve of land was to be made for them, and showed their knowledge of its meaning by now referring to it and by saying that they would live with the English as with each other.”

Again, on the 27th September, referring to the signing of the first deed of purchase he wrote,—

“ Nayti was a subscribing witness, and occasionally explained the nature of the deed as relates to the reserve of land.”⁽²⁾

A further extract from the same journal regarding the second purchase, and the negotiations with Rauparaha and Te Hiko, reads,—

“ A full explanation took place as to the disposal of all their rights. The reserve of a suitable portion of the land for the maintenance of the chiefs, their families, and successors for ever, was also dwelt on, and met with their highest approval.”⁽³⁾

In his interesting book, “ Adventure in New Zealand,” Colonel Wakefield’s nephew, E. J. Wakefield, in referring to the signing of the first deed, says,—

“ As I read it through, sentence by sentence, in English, Barrett interpreted into Maori; and he was repeatedly urged by Colonel Wakefield to explain fully each important provision contained in it. The Native reserves were especially dwelt upon.”⁽⁴⁾

In alluding to the first deed, Miss J. I. Hetherington states that Barrett professed no more than a smattering of the Maori language :—

“ It was discovered afterwards that he could not convey the idea of tenth share in Maori, and the Natives had the idea that half the land purchased was to be returned. The contrast between the lengthy and legal wording of the deed signed and the interpretation given by Barrett, which he reproduced in the Land Commissioner’s Court in later years, was ludicrous. Colonel Wakefield, however, believed the transaction to have been according to native usage.”⁽⁵⁾

3. THE WELLINGTON TOWN-ACRE RESERVES.

The “ Aurora,” bearing the first contingent of Wellington’s Pilgrim Fathers, dropped anchor at Port Nicholson Heads on the 20th January, 1840, and on the 22nd⁽⁶⁾—a week before Captain Hobson’s arrival, and which day is observed as the anniversary of the province—the first emigrants landed. By the 21st April the arrivals of five more emigrant-ships were announced in the *New Zealand Gazette*, Port Nicholson, the first newspaper published in New Zealand. As the surveying-vessel, the “ Cuba,” had not arrived until the 4th January, no preparation had been made for the arrival of the colonists, who for the first few months squatted on the banks of the Hutt River until the survey of the town was completed and the sections ready for selection.

Captain Mein Smith, the Company’s Surveyor-General, chose the entrance to the Hutt Valley as the site for the town, which was to be named Britannia, and commenced his surveys there⁽⁷⁾, but owing to the swampy nature of the land and its liability to be flooded the choice proved unsuitable, and it was decided at a public meeting held in March, 1840, to remove the town to Lambton Harbour. In November the directors of the Company, moved by Edward Gibbon Wakefield, expressed the wish that the new town might be named after the Duke of Wellington, to commemorate the support which His Grace had lent to the cause of colonization, and the new name was at once adopted.

According to the plan on which the settlement was founded, Wellington was laid out in 1,100 sections of 1 acre each, besides reserves for public purposes. The selection of the town lands commenced on the 28th July, 1840, in accordance with the choice by lot determined in England, and was completed on the 14th August. The Native reserves were selected by Captain Mein Smith from the orders of choice drawn by an officer of the Company in England, and were treated precisely in the same way as though each of the sections had been purchased by a private individual. The following is the list of the 110 sections reserved as Wellington “ tenths”: Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,

(1) Extract from copies of actual deeds of purchase.

(2) Extract from Colonel Wakefield’s journal.

(3) Extract from Colonel Wakefield’s journal, 21/10/39: App. 12th Rep.

(4) “ Adventure in New Zealand,” by E. J. Wakefield, p. 65.

(5) “ New Zealand: its Political Connection with Great Britain,” by Miss J. I. Hetherington, M.A.

(6) *New Zealand Gazette*, 18/4/40: “ Shipping Intelligence—Arrived January 24th, 1840, barque ‘ Aurora,’ 550, Leale, London (immigrants).” NOTE.—The date (24th) is evidently a misprint.

(7) “ Adventure in New Zealand,” by E. J. Wakefield.

12, 13, 14, 15, 16, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 37, 39, 40, 41, 42, 43, 44, 45, 46, 49, 89, 90, 109, 111, 113, 270, 271, 272, 278, 279, 487, 514, 539, 542, 543, 545, 574, 580, 584, 591, 592, 593, 594, 601, 602, 603, 604, 605, 606, 607, 608, 633, 634, 635, 636, 637, 659, 660, 864, 893, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1081, 1082, 1098, 1099, 1100: total 110.⁽¹⁾

4. THE FRIENDSHIP OF LORD JOHN RUSSELL.

While the Company's Principal Agent was negotiating with the Maoris for immense tracts of territory in New Zealand, the Company itself was endeavouring to obtain some recognition from the English Government. On the 7th November, 1839, Mr. Somes, the Deputy Governor, complained to Lord Palmerston, of the Foreign Office, that "the Colonial Office refuses to hold any communication with, or in any way recognize the existence of, the New Zealand Land Company."⁽²⁾ It was not however, until Lord John Russell had succeeded the Marquis of Normanby as Secretary of State for the Colonies, and had been in office for nearly a year, that satisfaction was obtained.

From the 14th January, 1840, until the 20th November of the same year New Zealand was a dependency of New South Wales. On the 14th January Governor Sir George Gipps, in proclaiming the extension of the boundaries of New South Wales to include New Zealand, declared all purchases henceforth made directly from the Maoris to be invalid.⁽³⁾ Captain Hobson immediately upon his arrival in New Zealand announced by proclamation the illegality of any title to land not confirmed by the Crown. On the 4th August, 1840, Governor Gipps's much discussed New Zealand Land Act was passed, under which no persons could acquire legal titles to land unless their claims were allowed by a Commission to be appointed by the Government of New South Wales. This was a bombshell to the colonists of Wellington, who were anxious to enter into possession of their lands without delay, and a deputation was sent to Sydney, which was favourably received by Sir George Gipps, who was prepared to grant to individual settlers a provisional title to the quantity of land purchased in England.

In the meantime the supporters of the Company in England petitioned Parliament to investigate New Zealand affairs, and in July, 1840, a Select Committee of the House of Commons was set up to inquire into the claims of the petition. The principal witness before the Committee was Edward Gibbon Wakefield, who in the course of an examination lasting several days gave an exhaustive account of New Zealand affairs from the Company's point of view. The draft report of the Chairman, Lord Eliot, who was supported by Mr. Gladstone, was favourable to the Company, but was rejected by the majority, who simply reported the evidence without making any recommendation.⁽⁴⁾

Lord John Russell, however, was considerably influenced by Lord Eliot's report, and in November, 1840, he decided to reverse the policy of his predecessors and recognize the Company. In the same month it was decided to separate New Zealand from the Government of New South Wales, and on the 16th November a charter was signed by Her Majesty erecting New Zealand into a separate colony. 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. These instruments were officially proclaimed in the colony on the 3rd May, 1841.⁽⁵⁾

5. THE AGREEMENT OF 1840.

Lord John Russell directed Sir George Gipps to suspend the operation of his Sydney Land Act until further instructed, and on the 18th November, 1840, he transmitted to the Company the draft of an agreement dealing with—

"(i) The adjustment, retrospectively, of the claims which the Company has established to favourable consideration for themselves and for the emigrants whom they have sent to New Zealand:

"(ii) The incorporation of the Company with a view to future operations:

"(iii) The powers of the incorporated body, and the terms upon which the Government would deal with them in regard to Crown lands in New Zealand."⁽⁶⁾

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 as many acres of land as shall be equal to four times the number of pounds sterling which they shall be found to have expended for the purposes of colonization." An accountant was to prepare an estimate of the Company's expenses, and for this purpose Mr. James Pennington, C.A., was nominated by Lord John Russell. The first 160,000 acres assigned to the Company were to be selected in those parts of Port Nicholson and New Plymouth districts already occupied by their settlers, and the rest of the land to which they might become entitled was to be selected in blocks of certain sizes.

⁽¹⁾ The above list of sections is compiled from a copy of the plan (the original plan of which is signed by Colonel McCleverty) attached to the Crown grant issued to the New Zealand Land Company, and has been checked with the New Zealand Land Company's Register of Town Sections (Wellington). The list has been compared with the original plan of Wellington signed by William Mein Smith, the Company's Surveyor-General, and agrees with such plan, with the exception of Sections 19, 281, and 858. Section 19 is not shown as a Native reserve on Captain Smith's plan, and Sections 281 and 858, although marked "N.R." on Smith's plan, are clearly European sections. Section 281, located in Cambridge Terrace, was drawn by H. De Castro, and Section 858, situated in Coromandel Street, was selected by Christopher Rawson. The actual number of sections marked "N.R." on Captain Smith's plan is 111. If Section 19 (marked "Selected by Capt. Smith" in the Company's register), is added to this total, and Sections 281 and 858 deducted, the remainder will agree with the official plan. The two plans and the Company's register are in the custody of the District Office, Lands Department, Wellington.

⁽²⁾ App. 12th Rep.

⁽³⁾ Great Britain—Parliamentary Papers, 1840.

⁽⁴⁾ House of Commons Report on New Zealand, 1840.

⁽⁵⁾ Mackay's Compendium, Vol. 1—Public Documents relating to the Colony of New Zealand.

⁽⁶⁾ Mr. Vernon Smith to Mr. Somes: App. 12th Rep.

The Company by this time had deemed it prudent to waive its claim to Colonel Wakefield's 20,000,000 acres, and gratefully accepted the offer of an acre of land for every 5s. expended upon colonization. The terms of the agreement "were not only such as we have no hesitation in accepting, but that, in the liberal judicious principles on which they are framed, we see ample ground for the fullest confidence in the spirit in which Her Majesty's Government is prepared to execute them."⁽¹⁾ It is stated that the Company's representatives had a large share in the drafting of this agreement⁽²⁾, and they certainly had a powerful friend in Lord John Russell.

The Company was formally incorporated on the 12th February, 1841. In addition to the regular clauses applicable to joint-stock companies, the charter embodied the terms of the agreement, and capital was increased from £100,000 to £300,000, of which two-thirds were to be paid up within twelve months, and power was given to further increase the capital to £1,000,000.⁽³⁾

Although the Sydney Land Act had been suspended, Lord John Russell announced his intention of instituting a Commission to inquire into the titles or claims to land in New Zealand⁽⁴⁾. On the 20th January, 1841, Mr. William Spain, an English attorney, was appointed by a Warrant under the Sign-manual and sent out from England armed with the full powers of the Crown "to investigate and determine titles and claims to land in New Zealand, with an absolutely unfettered discretion," and to give special attention to the Company's affairs.

6. THE PENNINGTON AWARDS.

In pursuance of the first provision of the November agreement, the statements of the Company's expenditure were examined by Mr. Pennington, and on the 28th April, 1841, he passed accounts totalling £132,982 9s. 8d., and awarded the Company 531,929 acres.⁽⁵⁾ On the 11th January, 1843, a further expenditure of £45,165 14s. 6d. was admitted, and a second award made, for 180,664 acres. In accordance with the former of these awards, an intimation was made to the Company that Lord John Russell would "forthwith transmit to the Governor of New Zealand a copy of Mr. Pennington's report, with instructions to make to the Agent of the Company the necessary assignment of land in pursuance of the terms of the agreement," and such instructions were given in a despatch dated the 20th May, 1841.⁽⁶⁾ Governor Hobson, however, insisted on the Company proving the validity of its purchases from the Natives to the satisfaction of the Commissioner of Land Claims (Mr. Spain), and this led to much wordy warfare between the Company and the Colonial Office, while the unfortunate settlers in New Zealand were unable to obtain their titles to the land for which they had in good faith paid.

7. THE COMPANY'S NATIVE POLICY.

With reference to reserves for Natives made by the Company within their purchases, the 13th clause of Lord John Russell's agreement dated the 18th November, 1840, made 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 the lands so 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 tenor 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 his evidence before the New Zealand Committee of 1840 Edward Gibbon Wakefield, in reply to a question as to the terms upon which the 20,000,000 acres purchased by his brother, Colonel Wakefield, for the Company had been acquired from the Natives, said,—

"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 the expenditure of the Company would acquire in a very short time a higher value than all the land possessed before—as, for example, the Company have purchased all our lands, let me say, in New Zealand for £10,000, the price of goods paid to the Natives in the first instance, but the land which we have reserved for the Natives has become by means of an expenditure in sending out a colony so valuable that we could sell that reserve here in London, if it were desirable for the good of the Natives, for £30,000 now; and, if the colony goes on, it is clear that within a few years from this time the land may be worth £100,000. Supposing the whole of the Company's territory to be 20,000,000 of acres, the quantity reserved for the Natives will be nearly 2,000,000. I feel, myself, quite satisfied that if the measure were to proceed in the best way every acre of land reserved would be worth at least 30s., so that there would be an endowment of £3,000,000 sterling in the course of time as a Native provision."

(1) Mr. Somes to Lord John Russell: App. 12th Rep.

(2) "The Colonization of New Zealand," by Dr. J. S. Marais.

(3) Charter of Incorporation of New Zealand Company, dated 12/2/41.

(4) Lord John Russell to Governor Sir George Gipps, 21/11/40: Parliamentary Papers, 1841.

(5) Great Britain—Papers relating to New Zealand, 1842.

(6) *Ibid.*, 1844: and House of Commons Report on New Zealand, 1844.

In reply to a question from Mr. E. Buller as to what security there was that the Natives would have the benefit of it, Mr. Wakefield said,—

“There is no security at present, because the Government has hitherto refused to let law be established in New Zealand, so that it is impossible to execute a trust. The Company are very desirous of placing this land in trust for the benefit of the Natives. If it placed the property at once at their disposal, they would sell it for a trifle. It became, therefore, necessary to create a permanent trust. That the Company will do as soon as they possibly can, and in the meantime they have appointed a Commissioner, whom they have sent out for the purpose of preserving, letting, and taking care of these lands.”

The witness, being asked to define the form of land order issued by the Company to purchasers, stated—

“It was an order by the Company upon its Surveyor-General to award to the holders of that land order so many acres of land, signed by three directors and the secretary. The priority of choice was determined by lot, and the Natives' sections were drawn for like others; and, as they were not present, an officer of the Company drew for them. The first number drawn for the Natives was No. 7, consequently the officer of the Company in the colony would have the seventh choice as respects both the town and country lands for the Natives.”

Mr. Ward, the Secretary of the Company, in reply to a question from the Committee, said,—

“It was not proposed that the Natives should take possession of the tenth reserved for them on the land being surveyed, but that trustees would be appointed to hold it for the inalienable use of the Natives, the proceeds to be applied for the benefit of those Natives who had surrendered the lands. The Company had already appointed a gentleman to go out and take upon himself the management and control of those lands; to secure the land, and to do what may be necessary for clearing and looking after it, and managing it for the benefit of the Natives.”⁽¹⁾

The gentleman appointed to the office of Commissioner for the management of the lands reserved in the New Zealand Company's settlement was Mr. Edmund Storr Halswell, a member of the English Bar, and a Magistrate of Middlesex. He was described as “a gentleman of great benevolence, who had taken an active interest in the systematic colonization of New Zealand from the first starting of the plan in 1837.”⁽²⁾ Mr. Halswell sailed by the “Lady Nugent.” The Company in its instructions dated the 13th October, 1840, drew his attention to the objects which it had in view in making the reserves :—

“It is the aim of the New Zealand Company to civilize the Native race by means of a deliberate plan, which, though confessedly experimental, is believed to be the only systematic attempt ever made to improve a savage people through the medium of colonization. It is a lamentable fact that in every instance of European colonization which history has recorded, whether in America or in the East, or more recently in Australia, the aboriginal inhabitants of the newly settled countries have been degraded, oppressed, and finally exterminated by coming into contact with a more advanced, more energetic, and more powerful people. Some professions of a desire to instruct and humanize barbarous races have indeed been made, but such professions do not appear to have led to any real improvement, and have too often been used as pretexts for cruelty and oppression. Looking at the past, the aboriginal races throughout the British colonies would seem in a state of hopeless decay and to be gradually disappearing before the presence of European settlers.

“The wilderness lands purchased by the Company from the Natives were valueless to them, and acquired value entirely from the capital expended in emigration and settlement. But the Natives could neither foresee nor prevent the dangers to which colonization exposed them, of finding themselves denuded of all landed property, and therefore deprived of territorial consideration in the midst of a new society, in which the land had for the first time become a valuable possession. To rescue the Natives from this impending danger was one of the first and leading purposes of the Company. From the very commencement of its proceedings the Company determined to reserve out of every purchase of land from the Natives a proportion of the territory ceded, equal to a tenth of the whole, and to hold the same in trust for the future benefit of the chief families of the ceding tribes.

“Such being the objects of the Company, the directors do not find it in their power to do more than to preserve the property by appointing a special officer to overlook it, as if it were the private property of the Company, but who will, of course, have no power whatever to alienate the same or any part of it.

“In managing the reserves you are to take into consideration the existing wants of the Native race, and to point out those objects to which in your judgment the revenues of the reserves may be most fitly appropriated to the end of promoting the moral and physical well-being of the Native chiefs, their families and followers, to the utmost extent that these means will admit, and as the appropriation of land to purchasers proceeds it will become your specific duty to select an eleventh, or a quantity equal to one-tenth of the land appropriated from time to time to purchasers, as Native reserves. The directors desire to impress on you the importance of taking care, on such occasions, that the lands you may choose for the Natives are the most valuable then open to appropriation.”⁽³⁾

⁽¹⁾ House of Commons Report on New Zealand, 1840.

⁽²⁾ *Colonial Gazette*, October, 1840.

⁽³⁾ App. IV, 3rd Rep.

8. EARLY MANAGEMENT OF THE RESERVES, AND SELECTING THE COUNTRY SECTIONS.

On his arrival in New Zealand Mr. Halswell was appointed by Governor Hobson to the joint offices of Chairman of Quarter Sessions and Commissioner of the Court of Requests for the southern district of the North Island, and he was also gazetted as Commissioner of Native Reserves and Protector of Aborigines for that district.⁽¹⁾ General directions were given by the Chief Protector of Aborigines, Mr. George Clark, regarding the management of the Native reserves, and he was empowered to lease for periods not exceeding seven years, and instructed to pay into the hands of the Colonial Treasurer every quarter all sums received on account of the reserves.

The first lease affecting the Wellington town reserves appears to have been granted by Mr. Halswell to "Dicky" Barrett, the whaler, who had assisted Colonel Wakefield in making his alleged 20,000,000-acre purchases. The lease was over part of Town Section No. 514, on which was erected the premises known as Barrett's Hotel, then the rendezvous of business men, and where the present Hotel Cecil now stands. There was some trouble at the time, as Barrett claimed the land by virtue of having erected and occupied the house previous to the formation of the Company's settlement, but the matter was finally settled in 1842 by granting a lease for seven years at an annual rental of £54 5s.⁽²⁾

The first and apparently only selection of country lands in the Wellington district was made by Mr. Halswell in April, 1842, when 4,200 acres were set aside as reserves in 100-acre lots in accordance with the first prospectus. In the course of a long report to Colonel Wakefield Mr. Halswell stated,—

"I attended at the office of the Company's principal surveyor on 7th April last, the day appointed for the selection of land recently surveyed in the districts of Manuwatu [Manawatu], Orewenua [Horowhenua], and other places. With the information derived from personal inspection of the country, and from other sources, I was enabled to select for the Natives, according to the order of choice, a portion of the reserved lots. The lands selected are 300 acres on the Porirua Harbour, 200 in the Ohariu Valley, 300 on the Manuwatu River, and 3,400 acres on the Orewenua. In making these selections for the Natives I have carefully attended, whenever possible, to their own wishes, such as I have been able to collect; my attention has been particularly drawn to their own clearings and paha, and I have secured for them as much water frontage as possible."⁽³⁾

It is difficult at the present time to record accurately those events dealing with the setting-aside of reserves in the country districts of the New Zealand Company's first settlement. The surveyors had their headquarters at Wellington, and were thus in close touch with the Principal Agent, so that written reports were, no doubt, considered unnecessary. In forwarding a sketch showing land surveyed, and under survey, within the limits of the first purchase (Port Nicholson conveyance) of the Company, Mr. S. C. Brees, Principal Surveyor, stated that 47,500 acres of country land, besides the 1,100 town acres, had been dealt with, out of which 110 town reserves had been made and thirty-four country sections were to be set aside.⁽⁴⁾

According to the old plans, the country reserves selected by Mr. Halswell in the vicinity of Port Nicholson are made up of the following sections :—

District.	Number of Sections selected.	Section Numbers.	Approximate Area.
			Acres.
Ohiro	4	15, 19, 20, and 21	400
Town	2	6 and 7	200
Harbour	2	5 and 6	200
Horokiwi	1	11	100
Kinopora (Porirua)	3	7, 8, and 9	300
Lower Hutt	8	1, 2, 3, 16, 20, 42, 57, and 58	800
Upper Hutt	3	98, 102, 132	300
Lowry Bay	2	1 and 4	200
Wainuiomata	1	39	100
Ohariu	7	12, 13, 17, 88, 91, 97, and 98	700
Makara	4	22, 24, 37, and 39	400
Kaiwarawara	Not stated	Not stated	500
Total area	..	..	4,200

The above list has been compiled from a map of the country sections in the vicinity of Port Nicholson signed by Lieut.-Colonel McCleverty and William Wakefield. No date is mentioned on the plan. The map is in the custody of the Lands Department (District) Office, Wellington. According to the original scheme, each section was to contain 100 acres, but in 1847 Lieut.-Colonel McCleverty reported that the areas varied from 100 to 130 acres.

⁽¹⁾ Great Britain—Papers relating to New Zealand, 1842.

⁽²⁾ Halswell to Colonial Secretary, 29/11/41; Halswell to Colonel Wakefield, 4/6/42: Great Britain—Report on New Zealand, 1844.

⁽³⁾ Halswell to Colonel Wakefield, 4/6/42: Great Britain—Report on New Zealand, 1844.

⁽⁴⁾ S. C. Brees to Colonel Wakefield, 31/1/44: Great Britain—Report on New Zealand, 1844.

Mr. Halswell retained the office of Commissioner of Native Reserves until June, 1842, when he was rather unceremoniously superseded, and by an arrangement made between the Home Government and the Company the control of the reserves passed to the Governor, the Bishop of New Zealand (Bishop G. A. Selwyn), and the Chief Justice (Sir William Martin), the latter two gentlemen having been appointed to the Colony by Lord John Russell. The Governor soon after declined to act himself, and decided to submit to the Legislative Council a Bill for vesting the reserves in three trustees—viz., the Chief Justice, the Bishop, and the Chief Protector of Aborigines. This Bill was never actually introduced, as Governor Hobson died in September, 1842, but in July, prior to his death, Mr. Halswell was informed of the arrangement and asked to resign the office of Commissioner.⁽¹⁾ Besides the revenue from the reserves, it was intended that the Bishop and his colleagues should have control of a proportion of the moneys derived from the sales of lands acquired from the aborigines, the funds accruing from both sources to be expended in the establishment of schools for the education of youth among the aborigines, and in furtherance of such other measures as might be most conducive to the spiritual care of the Native race and to their advancement in the scale of social and political existence.⁽²⁾ The principle of setting apart a percentage on the produce of land-sales annually does not appear to have been adhered to, and the original instructions regarding this proposal were ultimately lost sight of during Governor FitzRoy's administration.⁽³⁾

The Chief Justice soon resigned the office of trustee, as he found the duties incompatible with his official position, for in the event of the trustees being engaged in any lawsuit he would be both Judge and party in the suit at the same time. Mr. Halswell was subsequently appointed to the sole charge of the reserves at Wellington, as agent of the trust vested in the Bishop and the Chief Protector of Aborigines; and Mr. H. A. Thompson, Police Magistrate, was appointed to fill a similar office in Nelson.⁽⁴⁾

The country lands in the Wellington district (comprising Wanganui, Manawatu, and Porirua) and the whole of reserves at New Plymouth were placed in the hands of Mr. Henry St. Hill as agent of the trustees.⁽⁵⁾

On the 30th November, 1841, the Company, in a letter to the Bishop of New Zealand, offered to advance a sum of £5,000 on mortgage of the Native reserves for the immediate benefit of the Natives, on condition—

“That, first, by some sufficient act of the Government the property in the reserves shall be placed under efficient protection and management, and, secondly, that the Government shall undertake the responsibility of determining in what manner, for what purpose, and under whose control, the funds derived from the Native reserves shall be expended.”⁽⁶⁾

The Company submitted the offer to Lord Stanley, the Colonial Secretary, and after considerable correspondence the matter was referred to the Governor of New Zealand.⁽⁷⁾ In the meantime the Bishop had proceeded to New Zealand, and on being asked by Acting-Governor Shortland to report on the advisability of accepting the offer he pointed out that the great objection to the plan proposed by the Company arose from the conditions required—viz., that the payment of the principal and interest should be secured by a power of sale added to the ordinary power of foreclosure.⁽⁸⁾ The matter was finally settled by Governor FitzRoy, who reported that it did not appear advisable to sanction any mode of raising money upon the security of the Native reserves which might by any contingency cause the alienation of those lands from the beneficial use of the aborigines.⁽⁸⁾

CHAPTER III.—THE NELSON RESERVES AND THE SPAIN COMMISSION.

1. THE PRELIMINARY EXPEDITION.

The directors of the New Zealand Company were more than pleased with the result of their negotiations with Lord John Russell. The British Government had at last recognized the Company as an instrument of colonization, the agreement dated the 18th November, 1840, had been ratified by the granting of the Company's charter, and prospects for the future seemed bright. Early in 1841 steps were taken for the formation of a second colony in New Zealand—to be called Nelson—on a more ambitious scale than that of the first.

On the 15th February, 1841, the Company issued a prospectus for the sale of 201,000 acres of land in the proposed second (Nelson) settlement upon the following terms:—

“(1) The lands are offered in 1,000 allotments of 201 acres each. Each allotment will consist of three sections—viz, 150 acres of rural land, 50 acres of accommodation land in the immediate proximity of the town, and one town acre. The town will therefore comprise 1,000 acres, exclusive of reserves for public objects such as streets, squares, churches, cemeteries, markets, and public gardens or parks.

(1) Governor Hobson to Trustees, Native Reserves, Port Nicholson, 27/7/42: House of Commons Report on New Zealand, 1844.

(2) Colonial Secretary, Mr. Shortland, to the Chief Justice, 26/7/42: House of Commons Report on New Zealand, 1844.

(3) Mackay's Compendium, Vol. 2, p. 264.

(4) Colonel Wakefield to Secretary New Zealand Company, 15/9/42: App. 12th Rep. And Bishop of New Zealand to H. A. Thompson, 6/9/42: Mackay's Compendium, Vol. 2, p. 267.

(5) Bishop of New Zealand to Acting-Governor Shortland, 19/12/42: App. 12th Rep., p. 43g.

(6) Secretary of the New Zealand Company to Bishop of New Zealand, 30/11/41: App. 12th Rep., p. 29g.

(7) Under-Secretary Hope to Somes, 29/4/42: App. 12th Rep., p. 38g.

(8) FitzRoy to Hope, 1/3/43: App. 12th Rep., p. 47g.

“(2) The price of each allotment of 201 acres will be £300. Then, after conditions of payment, terms of balloting for choice of selections, &c., the prospectus states,—

“(7) The Company engages, subject to an arrangement with Her Majesty's Government, to add to the 201,000 acres offered for sale a quantity equal to one-tenth thereof as Native reserves; so that the quantity of land to be appropriated will in fact consist of 221,100 acres and the town of 1,100 acres. The plan of the Native reserves in the first settlement will be followed, unless the regulations of Her Majesty's Government, or any unforeseen difficulty should prevent its adoption.”

The founding of the settlement of Nelson introduces a fourth member of the Wakefield family into the colonization of New Zealand⁽¹⁾, Captain Arthur Wakefield, R.N. (a younger brother of Edward Gibbon), who had entered the navy at the age of ten and served with distinction. Captain Wakefield was selected by the Company to command the Nelson expedition, and upon its arrival he became the Resident Agent, with powers subordinate only to those of his brother, Colonel William Wakefield. The preliminary expedition for the choice and survey of the site of Nelson sailed from Gravesend on the 28th April, 1841. It consisted of two vessels—the “Whitby,” 347 tons, carrying the flag, and the “Will Watch,” 251 tons—and was followed nineteen days later by the brig “Arrow,” 225 tons, laden with stores.⁽²⁾ The chief surveyor selected by the Company was Mr. Frederick Tuckett, who had under him a staff of assistants and labourers, and accompanying the expedition was Captain Liardet, of the Royal Navy, who was appointed agent at New Plymouth. After a somewhat protracted voyage the “Arrow” was the first to arrive at Wellington, on the 28th August of the same year, a few weeks ahead of the other two ships. Captain Wakefield's first objective was the selection of a suitable site, and he at once applied to Governor Hobson, who had been instructed by Lord John Russell on the 22nd April, 1841, to allow the Company to select the land for its second settlement, out of the limits prescribed by the original agreement of November, 1840.⁽³⁾ Governor Hobson offered the choice of three sites in the North Island, but the Wakefields decided that Port Cooper (Lyttelton) was a more suitable locality⁽⁴⁾. Captain Hobson, however, refused Port Cooper, on the ground that it was claimed by various individuals, including the Nanto-Bordelaise Company, and Colonel Wakefield eventually directed his brother to select a site at Blind Bay (Tasman Bay).⁽⁴⁾ The insufficiency of suitable land adjacent to the site which was selected was the cause later of serious difficulties, including even the massacre of Wairau in 1843.

Leaving Wellington on the 30th September, 1841, the little fleet came to anchor eight days later in Astrolabe Roads, and exploring parties were at once despatched in different directions to search for available country, and also for a suitable port. On the run across, Captain Wakefield called at Kapiti to acquaint Rauparaha of his intention to form a settlement in Blind Bay. The first site selected—much against the wishes of the chief surveyor—was at Kaiteretere, near Riwaka; but later the harbour of Wakatu was discovered and found to be more suitable. The parties immediately re-embarked, and on the 1st November, 1841, the brig “Arrow” leading the way, steered past the rock which is now known by her name and sailed into Nelson Harbour.

The chief surveyor, Mr. Tuckett, although satisfied with the port of Wakatu, and the ground contiguous to it as a site merely for a town, reported that there was insufficient land in the vicinity to provide for the rural and accommodation sections. Mr. Charles Heaphy, the Company's draughtsman who had accompanied the expedition from Wellington, and who possessed the gift, according to Mr. Alfred Saunders⁽⁵⁾ of “putting non-existent land of the highest quality upon paper,” was quite hopeful, however. In a letter which was published in Wallace's “Early History of New Zealand” he stated that “this settlement will require 500,000 acres, and that amount of available land is here.” There was little time, however, for further search, the emigrants were on their way out from England, and Captain Wakefield decided to remain at Port Wakatu and select his country lands in the districts of Waimea, Moutere, Motueka, and Massacre (Golden) Bay.

The first emigrants for Nelson sailed from the Downs in September, 1841, and on the 1st February, 1842, since commemorated as Nelson's Anniversary Day—the “Fifeshire” dropped her anchor outside the Boulder-bank. A few days later the “Mary Ann” showed up, followed by the “Lloyds” and the “Lord Auckland.” From April, 1841, to August, 1842, forty-two vessels sailed from England to different parts of New Zealand, and, of these, nineteen for Nelson.⁽²⁾

The work of settlement now commenced; tents were pitched among the fern, and buildings which had been brought in pieces from England were erected for the accommodation of the people. Wheelbarrows were the only means of conveyance until the arrival from Port Nicholson of the redoubtable but rather profane Sam Phelps and his celebrated team of bullocks. The Natives were friendly, and kept the settlers supplied with fish and kumeras, and Auckland Point, where the present hostelry now stands, was the camping-ground of many curiously interested Maori visitors, with their “poakas” tethered awaiting pakeha purchasers.

(1) The youngest brother, Felix, was also induced to go to New Zealand a few years later, and in 1849 he wrote a valuable report for the Company on colonial surveying: “Colonization of New Zealand,” by Dr. J. S. Marais. Another brother, Daniel, came out with the first colonists, and later held office as Attorney-General for the colony, residing at Wellington, before representative institutions were introduced; subsequently he was appointed Judge of the Supreme Court and stationed at Wellington: Cox's “Men of Mark of New Zealand.” Note.—Daniel Wakefield was on the Board of Management for the reserves at Wellington prior to the passing of the 1856 Act.

(2) “Nelson,” by “Kappa,” 1842.

(3) Great Britain—Papers relating to New Zealand, 1841, p. 138.

(4) *Ibid.*, 1842, p. 157.

(5) “History of New Zealand,” by Alfred Saunders.

2. SELECTING THE "TENTHS."⁽¹⁾

In the meantime Mr. Tuckett and his assistants had not been idle, and in April, 1842, the town survey was completed and the town sections selected from the orders of choice drawn in England. The Native-reserve sections were selected by Mr. H. A. Thompson in his capacity as agent for the Bishop of New Zealand and his co-trustee, the Chief Protector of Aborigines. Mr. Thompson had been appointed in March by Governor Hobson to nearly all the Government offices in Nelson, including Police Magistrate, Postmaster, Sub-Protector of Aborigines, Collector of Customs, and eventually he was made Judge of the County Court.

The following is a list of the town sections selected as Native reserves from the choices drawn on behalf of the Natives: Nos. 5, 20, 21, 46, 47, 50, 62, 63, 64, 65, 66, 93, 144, 148, 152, 159, 162, 177, 191, 194, 198, 203, 205, 227, 229, 231, 233, 241, 244, 248, 253, 256, 261, 263, 265, 266, 267, 269, 283, 284, 294, 303, 305, 307, 344, 367, 382, 387, 406, 416, 417, 443, 521, 522, 529, 537, 551, 561, 575, 582, 583, 598, 608, 625, 626, 650, 706, 710, 718, 722, 768, 777, 778, 784, 797, 798, 828, 831, 855, 858, 860, 897, 905, 911, 926, 939, 941, 943, 945, 951, 953, 954, 956, 1051, 1084, 1088, 1091, 1092, 1096, 1099: total sections originally selected, 100.

The next task confronting the surveyors was to find 50,000 acres of accommodation or suburban land in the immediate proximity of the town. It proved a difficult matter. Notwithstanding the optimistic statements of Mr. Heaphy, the Company's draughtsman, it was found that in the combined districts of Wakapuaka, the Waimea, Moutere, and Motueka there were not more than 60,000 acres of land suitable for cultivation, and of these, according to Mr. Tuckett, only 14,000 could be described as good.⁽²⁾ It was "not until every nook and corner of accessible land within forty miles of the port had been taken up by the surveyors"⁽³⁾ that the 50-acre sections were available for selection, and many of these sections could hardly be classed as "suburban."

At the end of May, 1842, over seventeen hundred persons were crowded round the Town of Nelson, and not an acre of the country land had been distributed. It was not till the 21st August that the accommodation lands were open for selection, and another season was gone before the fern land could be got ready for sowing or swamp lands drained. All this was very annoying to the settlers who had paid in advance for their land, and they naturally blamed the Wakefield system of colonization, whereas the real cause of all the trouble was the fact that the surrounding country would not admit of the carrying-out of the Nelson scheme of settlement.

The selection of the suburban lands took place in August, and Mr. Thompson chose for the Native reserves the following sections:—

Moutere: Nos. 45, 69, 71, 73, 75, 84, 85, 137, 138, 144, 145, 147, 148, 151, 201, 202, 205, 206, 213.

Motueka: Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 16, 20, 21, 22, 28, 29, 33, 34, 35, 36, 47, 48, 73, 74, 79, 80, 82, 92, 93, 111, 113, 117, 118, 122, 123, 124, 126, 127, 129, 132, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 157, 159, 160, 161, 168, 169, 183, 186, 187, 192, 199, 206, 207, 208, 221, 222, 223, 234, 236, 240, 241, 242, 253, 256, 260, 262, 263, 264.

In September Bishop Selwyn, who was paying his first visit to Nelson, gave general directions for letting the reserves. The principles upon which he conceived the Native reserves ought to be let were—

- (1) That the lands should be let not so much with a view to the largest immediate return as to the creation of a permanent and respectable property and to the general improvement of the settlement of Nelson:
- (2) That the length of leases granted should vary with the description of property proposed to be placed on the ground.

He recommended the following scale:—

- (a) Lease of seven years for gardens, without covenant to build; ground to be cleared and cultivated within two years; rent, 10 per cent. of value of allotment:
- (b) Lease for fourteen years, with covenant to build wooden houses to the value of seven years' purchase of the annual rent:
- (c) Lease for twenty-one years, with covenant to build brick or stone houses to the value of ten years' purchase of the annual rent:
- (d) Lease for seven years, renewable for further seven years if the tenants before the expiration of their term should have erected wooden buildings of the required value:
- (e) Lease for fourteen years, renewable for further seven years on the erection of brick or stone buildings of the value required above.⁽⁴⁾

Arrangements were also made by the Bishop for the erection of a small chapel and one or more dwellings for the use of the Natives, and for these purposes Captain Wakefield consented to advance £200 on the security of the Native town sections. A hospital for sick Natives and a boarding-school for Maori children were also contemplated.⁽⁴⁾

3. THE MASSACRE AT WAIRAU.

Having at last supplied the settlers of Nelson with their suburban sections, the surveyors were now faced with a much more difficult problem—that of finding sufficient land to cut up into 1,100 lots of 150 acres each. They had combed the district within a radius of forty miles for the accommodation sections, and it was now necessary to seek further for the rural lands. They went to Massacre (Golden) Bay, but this district could not supply half of the required number of rural sections, although Mr. Heaphy had talked airily of half a million acres. It became necessary to explore further, and in the opposite direction, for available land, and this led to the discovery of the Wairau Valley and ended in the shocking catastrophe which bears its name.

⁽¹⁾ The list of sections selected as Native reserves in Nelson, Moutere, and Motueka have been taken from Mackay's Compendium, Vol. 2, p. 265, and checked with original plans in the Lands and Survey (Head) Office.

⁽²⁾ Cowell to Earl Grey, 23/11/47: Correspondence *re* New Zealand Company; printed 1/7/52.

⁽³⁾ "History of New Zealand," by Alfred Saunders.

⁽⁴⁾ Bishop of New Zealand to H. A. Thompson, 6/9/42: Mackay's Compendium, Vol. 2, p. 267.

" Rich in alluvial soil, open and attractive to the eye, and near the sea, it wanted only greater extent to be one of the finest districts in the Islands. The Company claimed to have bought it from Rauparaha and Rangihacata, whose ownership—for they did not live in it—was based on recent conquest and on occupation by some members of their tribe. The chiefs denied the sale, and when the Company's surveyors came into the valley warned them off, and burned down the huts they had put up. Commissioner Spain was coming almost at once to try the dispute as to the title. But the delays and vexations of the previous year had infuriated Captain Wakefield. He looked upon the chiefs as a pair of 'travelling bullies' who wanted but firmness to cow them. With hasty hardihood he obtained a warrant for the arrest of Rauparaha on a charge of arson, and set out to arrest him, accompanied by the Nelson Police Magistrate, at the head of a posse of some fifty Nelson settlers very badly equipped."⁽¹⁾

The details of the Wairau massacre are well known: how the Magistrate, Mr. Thompson—always an excitable man—held up the handcuffs and attempted to arrest Rauparaha; how Te Puaha, another chief, stood between the parties with an open Bible in his hand endeavouring to keep the peace; how Mr. Thompson lost his head and ordered the men forward; the scuffle, the firing of the first shot (said to be by accident), the return fire of the Maoris, the retreat that became a rout, the surrender of Captain Wakefield, Mr. Thompson, and some of their followers, and their massacre in cold blood by the gigantic Te Rangihacata. All this has been related in detail in every book dealing with the early history of New Zealand, and the story is even told to-day in our schools.

On the 1st July, 1843, the *Nelson Examiner*, under the heading "Horrible Massacre at the Wairau," said, —

"The tragic and altogether unanticipated event which has deprived Nelson of so many of its most valuable residents has so overwhelmed us that we find ourselves unable to do more than briefly narrate the principal facts."

The victims, twenty-one in all, were found the next day by the Rev. Samuel Ironside, the Wesleyan missionary, and he earned the lasting respect of the settlers of Nelson by burying the dead according to the last rites of the Church of England. When the news reached Nelson ten days later "the grief and horror of the inhabitants was excessive."⁽²⁾ The Church Hill, where the beautiful new cathedral is now being erected, was fortified, and the citizens enrolled themselves as militiamen. The tragedy cast a gloom over the colony and created a sensation in the Old Country; even in Paris the affair was discussed.

In his narrative of the Wairau massacre, Alfred Domett, poet and statesman, gives a brief note of the late Magistrate's work in connection with the selection and management of the Native reserves which is of interest. He says,—

"At Nelson, where the Protector of Aborigines was not a missionary, nor anxious to recommend himself to Government by consulting and gratifying any of its little jealousies or lurking antipathies, but an English gentleman of energy and honesty, something more has been done for the Natives. That gentleman was Mr. Thompson, and the Bishop placed the management of the Native reserve in his hands. The Company advanced £200 on the security of the Native town reserves, and a Maori schoolhouse and two Native hostleries, constantly used by Maori visitors, have been built; they are of brick, and among the best houses in the town. The reserves have been chosen with the same regard for the habits of the Natives as was shown at Wellington. At Motueka the whole of their cultivated lands and pas have been included in them; and at Wakapuaka, where the amount of cultivated land is but limited, the surveys were not carried within six miles of it."⁽³⁾

After the murder of Captain Wakefield, Mr. F. Tuckett, the chief surveyor for Nelson, acted as the Company's agent for that district until the 4th September, 1843, when Colonel Wakefield appointed Mr. William Fox⁽⁴⁾ (afterwards Sir William and several times Premier of New Zealand) to the position. The Bishop appointed Mr. Alexander McDonald, of the Union Bank of Australia, to fill the vacancy of agent for the reserves, caused by the untimely death of Mr. Thompson, the Magistrate.

4. MR. COMMISSIONER SPAIN'S INVESTIGATIONS.

Mr. William Spain, the officer appointed by Lord John Russell as Commissioner of Land Claims in New Zealand, sailed from England on the 23rd April, 1841, but did not reach the colony until December of the same year, having been shipwrecked near the Cape of Good Hope. He received his commission from Governor Hobson on the 22nd February, and commenced his sittings at Wellington in March, 1842. Associated with him as interpreter was Mr. George Clark, jun., son of the Chief Protector of Aborigines, a youth of eighteen years, who had been appointed Sub-protector for the southern district through the influence of his father. It was said that he acted in the dual capacity of interpreter in Court and counsel for the Natives out of Court.

From the very outset it was evident that the Commissioner's ideas of what constituted his duty were in direct conflict with those of the Company's Principal Agent. Colonel Wakefield, relying on the agreement of 1840 and the Pennington awards, thought that the inquiry would be merely a formal one, and protested when the Commissioner insisted on the Company proving the validity of its purchases from the Natives. Spain considered that a consent on the part of the Government to grant to the Company the land, which according to Mr. Pennington's award they

(1) "The Long White Cloud," by W. P. Reeves.

(2) *Nelson Examiner*, 1st July, 1843.

(3) App. 14th Rep., p. 191.

(4) App. 12th Rep., p. 93n.

were found to be ultimately entitled to, without obliging them to prove the extinction of the Native title, would be a direct contravention of, and in utter opposition to, the spirit of the Treaty of Waitangi.⁽¹⁾ The Governor of the Company complained to the Colonial Office that the proceedings were founded on an entire misconception on the part of the Commissioner of the position in which the agreement with Her Majesty's Government of November, 1840, followed up by the Pennington awards, had placed the Company in relation to the lands which that agreement entitled them to select within certain specified limits.

Very little progress was made by the Commission, and the investigation dragged on for three years, during which time the uncertainty as to the validity of the land-titles exasperated the settlers. Complaints appeared in the press,⁽²⁾ the progress of the Company's settlements was retarded, and, more serious still, the Natives adopted a changed attitude, which in time became one of aggression. Spain, unfamiliar with the Maori language and customs, commenced his proceedings with a minute investigation into the Native system of land-tenure. He endeavoured to decide upon the claims according to the inapplicable principles of English law, and not according to Native equity and the peculiar circumstances of an uncivilized country. He spent months and months in the examination of Native witnesses, when, according to the Hon. W. P. Reeves, "speed was the first thing needful, also the second, also the third."⁽³⁾ His investigations certainly showed that Colonel Wakefield had given but little attention to the carefully drafted instructions handed to him by the Company on the eve of his departure from England. In an interim report to Acting-Governor Shortland, dated 12th September, 1843, Spain stated—

"That, as far as the evidence has gone, the Company's purchases were made in a very loose and careless manner; that descriptions were put on deeds without taking the trouble to inquire whether the thousands of aboriginal inhabitants occupying the surface of those vast tracts of territory alleged to have been purchased had been consenting parties; that a greater portion of the land claimed by the Company in the Port Nicholson district had not been alienated by the Natives to the Company, and that other portions had only been partially alienated⁽⁴⁾; that the Natives did not consent to alienate their pas, cultivations, and burying-ground; that the explanation by the interpreter of the system of reserves was perfectly unintelligible to the Natives."⁽⁵⁾

While the Commissioner's exhaustive inquiries revealed many glaring errors both of omission and commission the consequent delay gave the Maoris opportunities which they were quick to grasp. There had been a few cases of repudiation before Spain arrived, but now scores of families and individuals came forward claiming that they had been overlooked, and requiring compensation. The more enlightened ones demanded gold; others guns, or horses, or similar valuable goods; and finally it was discovered that Natives from other districts had moved to places in the vicinity of the European settlements, attracted by the prospects of compensation. An amicable settlement as far as Wellington was concerned was ultimately effected by the payment of £1,500⁽⁶⁾ to the unsatisfied claimants to land within the limits described in the first deed of conveyance of the Port Nicholson district, and on the 31st March, 1845, Commissioner Spain made his final awards, which still left the land question far from settled. The following is the text of the Wellington award:—

"I, William Spain, Her Majesty's Commissioner for investigating and determining titles and claims to land in New Zealand, do hereby determine and award that the directors of the New Zealand Company in London and their successors are entitled to a Crown grant of 71,900 acres of land, situate, lying, and being in the district or settlement of Port Nicholson, or Wanganui-Atera, in the southern division of New Zealand. The country land comprising 708 sections of 100 acres each, making together 70,800 acres, and the town land comprising 1,100 acres, which said land and the several districts in which it is situated are more particularly set forth and described in the schedule contained in Enclosure No. 3 of this report, which said schedule was agreed and determined upon on the 8th day of February, 1844, between Colonel William Wakefield, the Principal Agent of the New Zealand Company, for and on behalf of that body, on the one part, and George Clarke the younger, Protector of Aborigines, for and on their behalf, on the other part, and are delineated and set forth upon the accompanying plan to this report annexed marked Enclosure No. 12. Saving and always excepting as follows: All the pas and burial-places and grounds actually in cultivation by the Natives, situated within any of the said lands hereby awarded to the New Zealand Company as aforesaid, the limits of the pas to be the ground fenced in around the

(1) Great Britain—Papers relating to New Zealand, 1844.

(2) The *New Zealand Gazette* complained that "the dubious state of the Company's title destroys the security of every title in Cook Strait; because of the ten thousand British inhabitants of those settlements, every occupier derives his title from the Company."

(3) "The Long White Cloud," by W. P. Reeves.

(4) House of Commons Report on New Zealand, 1844.

(5) Surgeon-Major A. S. Thomson, of the 58th Regiment, in his "Story of New Zealand: Past and Present," Vol. 2, dealing with the protests by the Natives against settlers appropriating land around Wellington, says: "It was found that Colonel Wakefield had bought 20,000,000 of acres from fifty-eight persons, upon which land 10,000 souls were living of different tribes from those who sold the land, each of whom, according to Native custom, had a vested right in some part of it, and according to Native usage a voice in its disposal; that missionaries and whalers, previously to Colonel Wakefield's bargain, had bought portions of the same lands from the Natives; and that the New-Zealanders denominated the Company's land-purchases 'thievish bargains.'"

(6) £950 of this amount was paid as follows: To the Natives of—Te Aro, £300; Kumutoto, £200; Pipitea, £200; Tiakiwai, £30; Pakua, £10; Kaiwarawara, £40; Waiwetū, £100; Waiariki, £20; Oterango, £20; Ohau, £20; Tikimaru, £10: total, £950. The following sums were offered and refused: The Hutt, £300; Ohariu, £190; Pito-one, £30; Ngahauranga, £30. Of the unpaid balance, £400 was subsequently paid, by direction of Captain FitzRoy, to Rauparaha and Rangihaeata, who by deed dated the 12th November, 1844, consented to surrender Heretaunga to the Governor of New Zealand on behalf of the New Zealand Company in consideration of this sum. (Spain's awards; and Maori Deeds of Land-purchases, North Island, Vol. 2, deed No. 3.)

Native houses, including the ground in cultivation or occupation around the adjoining houses without the fence, and the cultivations are those tracts of country which are now used by the Natives for vegetable productions, or which have been used by the aboriginal Natives of New Zealand since the establishment of the colony; and also except the thirty-nine Native reserves of 100 acres each and the 110 town acres, which said Native reserves are also set forth in the said schedule, and delineated upon the said plan except the two Native reserves of 100 acres marked upon the said schedule as Native reserves reserved."

In May, 1844, the Court adjourned to New Plymouth, and eventually awarded the Company 60,000 acres, subject to a reservation of one-tenth as Native reserves. In Petrie, or Wanganui, an area of 40,000 acres was awarded, subject to a similar reservation, and at Porirua the Company's claims were disallowed.

On the 19th August, 1844, the Spain Commission commenced its proceedings at Nelson to investigate the Company's claims to land in that district. In his report to Governor FitzRoy, dated the 31st March, 1845, Mr. Spain stated that—

"The first witnesses examined were called by Colonel Wakefield for the purpose of proving the fact that various presents were made soon after the arrival of the Nelson preliminary expedition, by the late Captain Wakefield, the then Resident Agent, to the Natives of Wakapuaka, Motueka, and Massacre Bay. A schedule enclosed, showing the appropriation of goods of various descriptions to the amount of £980 15s. to the Natives of the above districts⁽¹⁾, was put in and proved on this occasion, and substantiated by the concurrent testimony of several gentlemen who witnessed the transaction with the Natives, and was subsequently verified by a reference to the books of the Company's storekeeper. From the testimony it appeared that the late Captain Wakefield, immediately on his arrival with the preliminary expedition, assembled the resident Natives of the several districts in the immediate vicinity of Nelson and informed them that he was about to take possession of the land by virtue of a purchase made by Colonel Wakefield, at Kapiti, of Rauparaha, Hiko, and others; but that, as it was customary on such occasions to make presents to the resident Natives, he was ready to give them certain articles of merchandise, which they were to receive on the distinct understanding that such goods were not to be regarded in the light of a further payment for the land, but merely as presents."

Soon after the sittings had commenced Colonel Wakefield announced that he was prepared to arrange for the final alienation of the Natives' claims by the payment of a few hundred pounds, and the sum of £800 was ultimately agreed upon as a further payment, and was appropriated by Mr. Clarke under the Commissioner's sanction and superintendence.⁽²⁾

The claims of the Natives residing in the vicinity of Nelson having thus been satisfactorily disposed of, Mr. Spain proceeded to adjudicate upon the alleged Wairau purchase. In his report bearing on this district he stated,—

"I am now come to speak on the subject of the Wairau. This district is mentioned in the deeds already referred to, but, your Excellency has seen by what I have said concerning Rauparaha's evidence, was never admitted by that chief to have been sold to Colonel Wakefield, nor was any particular testimony given on the subject before me at Port Nicholson. I was naturally very anxious on this subject when I opened my Court at Nelson, and certainly did not anticipate that it would be passed over entirely without any evidence being offered on the subject. Such, however, was the case; and although the Principal Agent put into Court a plan showing the land surveyed and required there, he attempted no proof of its purchase, and made no reference to the subject when Mr. Clarke asked £800 as the amount of compensation to be paid to the Natives, exclusive of the district of Wairau.

"Reporting, then, upon this case under these circumstances, considering the positive denial of Rauparaha and Rangihaeata of the sale, the absence of any proof by Colonel Wakefield of its purchase, or of Captain Wakefield having, on his arrival, made any other bargain with the resident Natives or proprietors of it, as he did with those of the other districts comprising the Nelson settlement, I am compelled to state that I am not prepared to recommend that the district of Wairau be included in the Crown grant to be made to the New Zealand Company of the land in the Middle Island.⁽³⁾

In referring to the Wairau massacre, Mr. Spain expressed relief that he was not called upon to express an opinion, far less a decision, on that fearful catastrophe. Nevertheless he felt it his duty to remark upon the extraordinary fact that the evidence concerning Rauparaha's denial of the sale of the Wairau lands should have been in his Court nearly two months before that tragedy occurred.⁽⁴⁾

The Commissioner appears to have dealt very fully with the claims of the Ngatitaoa Tribe upon the Middle Island, which arose entirely from conquest, followed up in some instances by occupation and partial cultivation.

(¹) The list included blankets, axes, tobacco, pipes, flour, sugar, more guns and powder, clothing, &c.

(²) To the Natives of Motueka, £200; to the Natives of Wakatu, £200; to the Ngatiawas, £100; to Ngapiko for his claim and for services rendered to the Commission, £10: total, £510. The balance of £290 was to be appropriated to the resident Natives at Massacre Bay, who had not attended the Court.

(³) See final award: Wairau district was not included.

(⁴) This point seems to have been lost sight of by some writers.

After sanctioning certain exchanges in Motueka and paying a tribute to the memory of the late Captain Arthur Wakefield, Mr. Spain made the following award for Nelson :--

" I, William Spain, Her Majesty's Commissioner for investigating and determining titles and claims to land in New Zealand, do hereby determine and award that the directors of the New Zealand Company and their successors are entitled to a Crown grant of 151,000 acres of land situate, lying, and being in the several districts of the settlement of Nelson, in the southern division of New Zealand, which said districts are divided as follows, that is to say: Wakatu or Nelson district, 11,000 acres, already surveyed; Waimea district, 38,000 acres, already surveyed; Moutere district, 15,000 acres, already surveyed; Motueka district 42,000 acres, partly surveyed--the remaining quantity required to be selected from the portions of land coloured red in the plan No. 1, hereunto annexed, and hereinafter more particularly referred to; and Massacre Bay district, 45,000 acres, partly surveyed; the remaining quantity to be selected from the portions of land coloured red on the said plans; which said several districts and the quantity of land contained in each particularly described and referred to in the enclosed schedule of the land required for the settlement of Nelson, as put into my Court at Nelson by the Agent to the New Zealand Company, and which said lands are more particularly delineated and described upon the accompanying plans, marked No. 7, saving and always excepting as follows: All the pas, burying-places, and grounds actually in cultivation by the Natives, situate within any of the before-described lands hereby awarded to the New Zealand Company as aforesaid, the limits of the pas to be the ground fenced in around their Native houses, including the ground in cultivation or occupation around the adjoining houses without the fence, and cultivations as those tracts of country which are now used by the Natives for vegetable productions, or which have been so used by the aboriginal Natives of New Zealand and since the establishment of the colony; and also excepting all the Native reserves upon the plans hereunto annexed, marked No. 1A, No. 1B, coloured green, the entire quantity of land so reserved for the Natives being one-tenth of the 151,000 acres hereby awarded to the said Company; and also excepting any portions of land within any of the lands hereinbefore described to which private claimants have already or may hereafter prove before the Commissioner of Land Claims a title prior to the purchase of the New Zealand Land Company."⁽¹⁾

During Mr. Spain's inquiry at Nelson the Sub-Protector, Mr. George Clarke, jun., recommended the exchange of a number of the sections selected as Native reserves in Motueka in lieu of an equal number of suburban sections in the same district which were found to be in the occupation of the Natives. This recommendation was subsequently acted on, and eight Native reserve sections--viz., Nos. 7, 8, 10, 11, 16, 28, 256, and 252--were exchanged for suburban sections Nos. 162, 163, 164, 182, 188, 212, 219, and 220. The whole of these sections had been previously awarded to the Natives by Mr. Commissioner Spain, together with eight other sections--sixteen in all--in fulfilment of the arrangement made between Captain Wakefield and the Natives, shortly after the arrival of the preliminary expedition at Nelson, to the effect that they should retain a considerable portion of the Big Wood at Motueka, then in cultivation by them. The following are the sixteen sections awarded to the Natives of Motueka by Mr. Spain: Nos. 157, 159, 160, 161, 162, 163, 164, 182, 183, 187, 188, 212, 219, 220, 241, and 242.⁽²⁾

Before his investigations were completed Spain crossed swords with the irascible Captain FitzRoy, who quashed the Taranaki award.

" The Governor accused the Land Commissioner of unreasonable delay in adjudicating upon land claims and in presenting his reports. On the 1st April, 1845, the Legislative Council, with the Governor's consent, struck Spain's salary out of the estimates, and on the 24th September passed a resolution suspending him from his office. But on the 7th October the Governor informed Spain that he would proceed no further in his case, so that the latter was never formally suspended. In the meantime, however, drastic steps of a more practical nature had been taken. The Governor wished Spain to quit his office, but the latter, not having finished the task allotted to him by Her Majesty's Government, refused to go. Thereupon, early one morning, FitzRoy sent Spain word that unless he had departed by evening he would send his Commissioner of Public Works to force his door and eject him. To such an argument there was no reply, and Spain yielded. He handed over the unheard land claims, upon some of which FitzRoy proceeded to adjudicate himself. The Colonial Office characterized the whole proceedings as 'entirely irregular'. "⁽³⁾

5. THE FIRST NATIVE TRUST ACT.

On the 27th February, 1844, Bishop Selwyn renounced all connection with the trust in consequence of Governor FitzRoy informing His Lordship that " he did not recognize any trustees of the Native reserves." In the same year the Governor introduced the Native Trust Bill, an Ordinance for appointing a Board of Trustees for the management of property to be set apart for the education

⁽¹⁾ The earlier portions of the Spain reports and voluminous correspondence in connection therewith are published in the House of Commons Report on New Zealand, 1844. Further correspondence, and the final awards, which deal also with Wanganui, New Plymouth, Manawatu, and Porirua, are contained in despatches from Governor FitzRoy to Lord Stanley, ordered by the House of Commons to be printed, 8th April, 1846.

⁽²⁾ Mackay's Compendium, Vol. 2, pp. 265 and 301. NOTE.--In the reports of the Spain awards published in parliamentary papers there is only a general reference to the stipulation by the Natives for the retention of a certain portion of a large wood at Motueka. The actual sections awarded are not given, nor is there any record of the eight sections exchanged at the instance of Mr. Clarke, beyond the mention that " one or two exchanges of the reserves for their use and benefit were effected by Mr. Clarke." It is probable that the late Judge Mackay when he compiled his Compendium in 1871 had access to the original Spain awards, and that the printed reports have been condensed. The original awards do not appear to be in existence at the present time.

⁽³⁾ " Colonization of New Zealand," by Dr. J. S. Marais, p. 236.

and advancement of the Native race, and although the Act did not come into operation it is worthy of mention. Five trustees—His Excellency the Governor, the Lord Bishop of New Zealand, the Attorney-General, William Spain, Esquire, so long as he held the office of Land Commissioner, and the Chief Protector of Aborigines—were to be appointed, and the Bill gave the trustees power to appoint school-teachers and prescribe the system of instruction to be pursued in the schools. Alienation, except by lease, was forbidden, and mortgages were declared to be void. The Native Trust Ordinance was passed by the Council on the 29th June, 1844, and forwarded to the Colonial Office for the Royal assent. In a covering memorandum the Governor pointed out that until legal authority was given no steps could be taken in respect of the lands reserved, and no fund could be raised for educational purposes or for the care of the sick.⁽¹⁾

The three non-official members of the Council (Clifford, Brown, and Martin) protested against the Bill on the ground that—

“The religion to be taught in the schools established under the trust is to be altogether left to the trustees, who must be expected—perhaps conscience will make it their duty—to carry out, so far as they can, their own religious views, giving at once a sectarian character to the trust, destroying thereby its usefulness, and creating a spirit of intolerance and religious discord among the Natives and various missionary bodies here (symptoms of which are already manifesting themselves).”⁽²⁾

Lord Stanley, in a despatch to Governor Grey notifying Her Majesty's confirmation of the Act, said, —

“I find that this enactment has given occasion to a protest signed by three members of the Legislative Council, who condemn it as of a sectarian character, and as tending to confine the education of the Natives to teachers in communion with the Church of England, to the exclusion of the teachers of any other bodies of Christianity by whom any of the Natives may have been brought into the Christian Church. Now, in the first place, the Bishop of New Zealand is the only one of five trustees who must of necessity be a member of the English Church, so that in point of fact the sectarian principle of which complaint is made is not adopted in this law; and, in the next place, I cannot hesitate to record my conviction that in our attempts to impart the blessings of education to a race of men in so defective a state of civilization we ought not to be deterred by the charge of narrow or sectarian views from keeping as far as possible out of sight those ecclesiastical controversies which so habitually agitate more advanced societies. If any case can be imagined in which minor distinctions should disappear to make way for the advance of the great truths, doctrinal and practical, of our common faith, it is the case of the aborigines of New Zealand.”⁽³⁾

The Act was not brought into operation, no doubt intentionally, in consequence of the terms of the last clause not being complied with—viz., that the confirmation of the Ordinance should be notified in the *Gazette*.

CHAPTER IV.—AWARDS AND SETTLEMENTS.

1. THE FIRST THREE GOVERNORS.

In 1845 affairs in New Zealand were rapidly approaching a crisis, and the Colonial Office, realizing that “the quarter-deck was hardly the best training-ground for the Government of a colony”⁽⁴⁾, decided to recall Captain FitzRoy and appoint in his stead Captain George Grey, the Governor of South Australia. Governor Hobson had died in 1842, worn out by the cares of his office. Soon after his arrival in the colony he had been stricken with paralysis, and, although he partially recovered, his health was never good afterwards. During his brief term of office he had encountered difficulties which few Governors have been called upon to face, and history shows that his record was highly creditable. The Maoris mourned his loss, and in petition to the Queen for another Governor they paid a touching tribute to his memory: “Let not a troubler come among us. Let him be a good man like this Governor who has just died.”

The Colonial Secretary, Lieutenant Willoughby Shortland, acted as Administrator during the interregnum, and in 1843 another Naval officer, Captain Robert FitzRoy, was appointed to succeed Hobson. The new Governor, although a well-meaning man, had few, if any, of the qualities of a statesman, and his extraordinary experiments in administering the affairs of a young colony caused untold harm. The catalogue of FitzRoy's mistakes was, according to one writer, “a melancholy retrospect.”

“He acted most indiscreetly at his introductory levees at Auckland and Wellington in singling out individuals for his criticism in terms of praise and blame. The pardon of Rauparaha and Rangihaeata for the Wairau massacre was given in such a way as to make it appear unnecessarily insulting to colonists. He suddenly waived the Crown's right of pre-emption over Native land, first imposing on the private purchasers of such land a fee to the Crown of 10s. an acre, and then a few months afterwards reducing that fee to 1d. an

(1) Governor FitzRoy to Lord Stanley, 22/10/44: Great Britain—Parliamentary Papers relating to New Zealand 1845.

(2) “England and New Zealand,” by Dr. A. J. Harrop (“The Experiments of Captain FitzRoy”).

(3) Lord Stanley to Governor Grey: Great Britain—Parliamentary Papers relating to New Zealand, 1846.

(4) Quoted by Dr. Marais in his “Colonization of New Zealand.”

acre. He wantonly set aside the award of the Land Commissioner at New Plymouth, and he utterly disregarded law and his instructions in dealing with what were known as the old land claims. Commencing with a ludicrous condonation of the first Native cutting-down of the flagstaff at Kororareka (Hone Heke's exploits), he ended by losing the settlement. He issued a variety of debentures, from 5s. upwards, and then unlawfully declared them to be legal tender. In the course of half a year he made one port alone out of many a free port, abolished all Customs duties in New Zealand, and re-established them."⁽¹⁾

Captain Grey was "one of the most remarkable of the many famous men who have added lustre to the colonial service of Great Britain"⁽²⁾. When he arrived in New Zealand on the 14th November, 1845, he found an empty Treasury, the Natives in rebellion, both at Kororareka and around Wanganui, and the Company's settlers in a state of despair. He at once set to work to repair the damage wrought by his predecessor, and within a year he had accomplished the seemingly impossible and the country was in a fair way towards recovery. His Native policy deserves special mention. By a close study of their language, customs, and history he acquired a wonderful influence over the Maoris.

"He showed a genuine interest in their welfare and civilization. His legislation and his administration were specially directed in matters directly affecting Natives, to their real good. He subsidized Native schools, established hospitals and other charitable institutions with valuable endowments in land; and he gave special encouragement and aid to the material improvement of the Natives, and to their advancement in civilization."⁽¹⁾

One of Governor Grey's first acts was to abolish the first Department dealing with Native affairs and reserves—the Protectorate Department—which had been created by Governor Hobson to promote "the health, civilization, education, and spiritual care of the Natives." The Chief Protector, George Clarke, sen., was a missionary, and, although he was FitzRoy's chief adviser, he was not, according to Dr. Marais, "a shining light among the members of his profession"⁽²⁾, due principally to his claims to considerable tracts of land.

"When Grey arrived in New Zealand he found that 'no establishments had been formed for the protection of life, property, or commerce,' there were no hospitals, and the 'Department' had not even thought of framing an education policy. Bishop Selwyn voiced the feelings of the whole colony when he pronounced the 'Protectorate' system a failure."⁽²⁾

In the place of a Chief Protector, the office of Native Secretary was created, and this position was offered to George Clarke, sen.

The endowments towards schools and hospitals made during the Grey administration will, in so far as they affect Native reserves, be dealt with in due course, but in the meantime, in order that events may be related in their proper sequence, it is necessary to explain briefly the nature of certain grants familiarly known in certain Departments of State as "the McCleverty awards."

2. THE MCCLEVERTY AWARDS.

The issue of Crown grants by Governor FitzRoy in July, 1845, in exact accordance with Commissioner Spain's awards for Wellington and Nelson caused a stir in the Company's camp. Apart from the fact that the grants were for a much lesser area than that claimed by the Company, the deeds contained certain conditions and exceptions which were not acceptable to the Principal Agent, and he declined to uplift the documents until the matter could be referred to the Court of Directors in England.⁽³⁾

The Wellington deed provided for a grant of 71,900 acres, and reserved—

- (1) All the pas, burial-places, and grounds actually in cultivation by the Natives:
- (2) The Native reserves, comprising forty-one country sections of 100 acres each and 110 town acres:
- (3) Four portions of land granted to private claimants:
- (4) All the lands set apart as Government reserves for public purposes.

The Nelson deed granted 151,000 acres, with reservations of precisely the same character, with the exception that Native reserves were defined to be one-tenth of the area granted, and that in lieu of specific grants to particular individuals a clause was inserted excepting private claims "which have been or may be hereafter proved."

The Company, in a letter to the Colonial Secretary, objected to the grants on the grounds that—

- (1) The reservation of the spots in the Town of Wellington claimed by private purchasers was directly at variance with a pledge given by Governor Hobson:
- (2) The quantity of land comprised within the Native cultivations would exclude from the grant at least one-sixth, and not improbably one-fourth, of that part of Wellington on which buildings have been erected:
- (3) In excepting from the Nelson deed one-tenth of the land granted, Governor FitzRoy appeared to have overlooked the fact that in the published prospectus for the settlement it was stated that the Native reserves would be equal to one-tenth of the lands offered for sale—that is, to one-eleventh of the quantity comprised in the entire scheme:
- (4) The reservation in the Nelson deed of all private claims would render the land altogether unavailable.

(1) "New Zealand Rulers and Statesmen," by William Gisborne.

(2) "Colonization of New Zealand," by Dr. J. S. Marais.

(3) Colonel Wakefield to Secretary of Company, 8/5/45: App. 20th Rep.

With regard to the pas and burial-places, the area of which was not known, it was pointed out that the extent of the Native reserves was fixed by the Company in the belief that the whole of the remainder was to be the Company's property. On these grounds the directors asked that instructions be given to Governor Grey for remedying the injury by the execution of new grants free from the objectionable clauses complained of.⁽¹⁾ In compliance with the Company's request the Colonial Office referred the correspondence to Governor Grey,⁽²⁾ who had already, on the advice of his Crown Law Officers in New Zealand, taken steps to annul the grants.⁽³⁾

The adjustment of difficulties arising from the loose exceptions of pas, burial-places, and cultivations in Governor FitzRoy's grants was entrusted to Lieut.-Colonel McCleverty, of the 48th Regiment, an officer appointed by Lord Stanley to proceed to New Zealand to assist the Company in the selection of land, to aid in surveying the exterior boundaries of such selections, and to judge the reasonableness of any purchases which the Company might make from the Natives.⁽⁴⁾

In the course of a long memorandum, which may be regarded as instructions to Lieut.-Colonel McCleverty, the difficult question of cultivated lands reserved in the FitzRoy grants was discussed by Governor Grey, who pointed out that sales to absentee proprietors had tended to increase the evils. The Natives had continued to cultivate lands which were sold by the Company but not taken up, instead of confining their plantations to the original reserves. The result was that the persons charged with the administration of the reserves, thinking they were not required by the Natives, had let the lands on long leases to Europeans. When from the spread of European population over the country the settlers began to require the lands which they had purchased, the Natives, finding their reserves now occupied, refused to give up possession of their present cultivations, and this had led to constant and violent disputes between the two races and had prevented the progress of the settlement. The description of the cultivations was altogether too vague. They had never been defined, and it was impossible after a time to tell what lands should be excluded from the grant.

Governor Grey's comment on the system of Native reserves is of interest. He said,—

"I think it proper to observe, generally, that the system of Native reserves, as laid down by the New Zealand Company, although an admirable means of providing for the future wants of the aborigines, is in some respects insufficient for their present wants, and ill adapted to their existing notions. It will be found necessary in all instances to secure to the Natives, in addition to any reserves made for them by the New Zealand Company, their cultivations, as well as convenient blocks of land for the purpose of future cultivation in such localities as they may now select themselves."⁽⁵⁾

Lieut.-Colonel McCleverty soon found that there were many difficulties attendant on the settlement of the question of cultivations occupied by Natives on European sections. He ascertained that 633 Natives had under cultivation 639 acres, 528 of which quantity were on sections sold by the Company to Europeans. He calculated that at least 1,200 acres would be required to compensate the Natives for the land they should relinquish, and if the arrangement was to be a permanent one a larger extent would have to be provided, as they did not understand the rotation of crops, but made fresh cultivations every few years. The chief difficulty in the way of carrying out this proposition was that the Government did not then own any land at Port Nicholson applicable to the purpose, and consequently it was almost impossible to put the Natives in possession of the land requisite to effect an equitable exchange, without purchasing it from the Europeans. Lieut.-Colonel McCleverty proposed, as a means of adjusting the matter, that a portion of the Town Belt—the whole of which was said to contain 800 acres—should be given in part compensation, and that other lands should be purchased in eligible situations to make up the remainder of the quantity required. He reported on the difficulty in dealing with lands owned by absentees, and he drew attention to the area of sections allotted to purchasers by the Company, which, instead of containing 100 acres each, generally ranged from 110 to 120 and sometimes to as many as 130 acres each.⁽⁶⁾

The final report of Lieut.-Colonel McCleverty was made in November, 1847, but in the absence of the four forms mentioned therein it is somewhat difficult to clearly understand the far-reaching effect of his awards. By almost a stroke of the pen, forty-four town sections and 2,868 acres of country land in Wellington were taken out of the Company's "tenths" and awarded to individual hapus. His report is quoted in full:—

"I have the honour to transmit to your Excellency four forms, completed. The two first—A and B—are in compliance with your wishes, expressed to the following effect in your letter dated the 21st October, 1847: 'But the object he (the Principal Agent of the New Zealand Company) has in view would, I apprehend, be better attained by stating what are the portions of the area comprised within the whole block *claimed by the Company* which cannot be granted, but must remain excepted or reserved either for the Natives, or for public services, or because some dispute is involved as to the right European ownership of them. . . . It will be necessary that an accurate list of all lands which, for any of the reasons I have stated, cannot be included in the grant should be drawn up and recorded.' The last two forms—C and D—serve to elucidate the cause of lands in unsurveyed districts, and on the Town Belt, being extended in quantity to the Natives beyond what they originally possessed.

⁽¹⁾ Secretary of New Zealand Company to the Right Hon. W. E. Gladstone, 23/2/46: Great Britain—Papers relating to New Zealand, 1846.

⁽²⁾ Mr. Gladstone to Governor Grey, 21/3/46: *Ibid.*

⁽³⁾ Governor Grey to Mr. Gladstone, 14/9/46: Great Britain—Parliamentary Papers relating to New Zealand, 1847.

⁽⁴⁾ Lord Stanley to Governor Grey, 18/12/45: Great Britain—Papers relating to New Zealand, 1846.

⁽⁵⁾ Memo. by Governor Grey, 14/9/46: Great Britain—Papers relating to New Zealand, 1847.

⁽⁶⁾ Report of Lieut.-Colonel McCleverty enclosed in despatch, Governor Grey to Earl Grey, 21/4/47: Great Britain—Papers relating to New Zealand, 1847.

"Form A exhibits the lands excepted and reserved to the Town of Wellington and Town Belt, arranged in columns under the heads and purposes to which the lands are to be applied and reserved. Form B exhibits the lands excepted and reserved within the block of Port Nicholson District exclusive of those enumerated in Form A, but similarly arranged; the boundaries of those on unsurveyed lands are stated on the reverse side of it. Form C shows the total quantity, where and how situated, of lands under cultivation belonging to the Natives of Port Nicholson previous to the arrangement under which the various portions as shown in Form D are disposed of. Form D shows the quantity of land on settlers' sections in fifty-four distinct patches. These are relinquished with the exception of 109½ acres on Sections 7, 8, and 9, Harbour District, as shown by the note. By the deeds in the Government Survey Office, the Natives relinquish all cultivations on settlers' sections, with the above 109½ acres, as shown in Form B, column 2. Certain pas are reserved. I would remark that the 576 acres cultivated by the Natives of the Harbour of Port Nicholson and of Ohariu, on settlers' sections alone, are scattered over fifty-four separate cultivations, of most irregular form and various sizes, as shown in Form D.

"The Natives of Ngauranga positively refused to give up on any account the cultivations and gardens around the port, amounting to 109½ acres, on Sections 7, 8, and 9.

"The four large blocks at Orongorongo, Parangarau, Te Korokoro, and Ohariu are all on unsurveyed land, and may appear large in extent, but in reality they possess little land available for cultivation, particularly those at Orongorongo and Parangarau. Nearly one-half of the former is not within the area of the block of the Port Nicholson Grant, being east of the Turakirai Range. On the block at Parangarau and Wainuiomata the Pitone Natives have eel-ponds, extensive cultivations, and other vegetable productions; both this and the block at Orongorongo are used as fishing-stations. The block at Te Korokoro is near the Pitone Pa, the Natives of which have one or more cultivations in the centre of it, and of irregular shape. The block at Ohariu comprises 121 acres on nineteen different scattered irregular-shaped gardens, already in use. The boundaries of that block are defined.

"More than 1,300 acres of the Town Belt still remain for public purposes. The Natives originally had 62 acres under cultivation at the time of the arrangement in January, 1844, and with Governor Grey's sanction now increased to 219 acres, it has much assisted in the removal of other difficulties.

"There are several small settlements on the coast between Cape Terawhiti and Ohariu and from thence up to Te Arataua, such as Waiariki, Otuongo, Ohau, Te Kaniru, Opau, and Pipinui. With the exception of Ohariu, none of these pas, small in population, have cultivations on settlers' sections; they are wholly on unsurveyed land, and I would suggest, as the large block unsurveyed, which comprises these lands, has not been allotted to settlers as stated in the heading of Form B, that the New Zealand Company should appoint a surveyor in co-operation with one on the part of the Government to survey and define the present cultivations, as well as the convenient blocks of lands for the purpose of future cultivations in such localities as the Natives may select themselves."⁽¹⁾

In 1847 Lieut.-Colonel McCleverty made his awards, which were given effect to by deeds executed by the Native chiefs residing in the districts concerned. By these deeds the chiefs agreed to give up to Her Majesty's Government all the cultivations which they had hitherto had on sections belonging to European settlers on receiving from the Lieut.-Governor certain other lands in exchange.

By deed No. 4, dated the 22nd March, 1847, the Te Aro Natives received 526 acres 1 rood 31 perches, made up of the following town and country sections:—

	A.	R.	P.
Town Sections—Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,			
16, 18, 20, 22, 23, 24, 25, 26, 27, 28, 37, 39, 41, 43, 45, 49: Total	31	0	0
Country sections—			
Part Section 7, Kinapora District	41	2	16
Section 8, Kinapora District	108	3	24
Section 91, Ohariu District	139	2	26
Section 15, Ohiro District	114	0	0
Town Belt	91	1	5
Total	526	1	31

Also two horses, two carts with harness complete, and two steel mills. Their pa was also guaranteed to them, containing 2 acres 1 rood 11 perches.

By deed No. 5, dated the 30th August, 1847, the Waiwetu Natives received—

	A.	R.	P.
Section 19, Lower Hutt, formerly belonging to Messrs. Bethune and			
Hunter	106	0	0
Part 57, Lower Hutt	125	0	0
Part 58, Lower Hutt	15	0	0
Total	246	0	0

The Natives of Waiwetu were also guaranteed in their pa, containing 3 acres 2 roods 39 perches. In addition, E Puni relinquished any claim to a portion of Native Reserve No. 20, Lower Hutt.

By deed No. 6, dated the 4th October, 1847, the Ngahauranga Natives received Section No. 6, Harbour District, 112 acres, and retained parts of Sections Nos. 7, 8, and 9, containing 100 acres.

By deed No. 7, dated the 7th October, 1847, the Natives of Te Aro received one-half of Section No. 26, Ohiro, containing 50 acres, for the purpose of making kumera-plantations.

(1) W. A. McCleverty to Lieut.-Governor Eyre, 20/11/47: Great Britain—Papers relating to New Zealand, 1848.

By deed No. 8, dated the 13th October, 1847, the Natives of Petone received—

	A.	R.	P.
Section 58, Taita	91	0	6
Sections 1, 2, 3, 16, and 20, Hutt	327	3	0
	229	0	16
Section 42, Waiwerewero	152	0	36
Section 11, Horokiwi	102	2	16
Section 5, Harbour	104	0	0
Not stated, Korokoro	1,214	2	2
Not stated, Wainuiomata	4,704	2	1
Total	6,926	0	37

(Error of $\frac{1}{2}$ acre overstated in addition.)

By deed No. 9, dated the 18th October, 1847, the Natives of Ohariu and Makara received—

	A.	R.	P.
Native Reserves 77, 88, and 97	351	2	7
Block of land between 88 and 75	131	2	16
Native Reserve 98 (pa)	131	2	9
Block to south-west of the pa	1,300	0	0
Native Reserves 37 and 39	200	0	32
Part of the 500-acre block at Kaiwara	167	1	0
Total	2,282	0	24

By deed No. 10, dated the 1st November, 1847, the Natives of Pipitea received—

	A.	R.	P.
Four town sections, Tinakori Road—Nos. 633, 634, 635, and 637	4	0	0
Part of Town Belt	80	0	0
Part of the block, Kaiwarawara	134	0	0
Part of Section 7 and the whole of Section 9, Kinapora	221	0	0
Seven town-acre sections in Polhill Gully (known as Moturoa's)— Nos. 40, 42, 44, 46, 109, 111, and 113	7	0	0
Block of land at Orongorongo	6,990	0	0
Total	7,436	0	0

Also a small portion of Reserve No. 542, containing 1 chain.

By deed No. 11 (undated), lands allotted to the Kaiwharawhara Natives, including the section (No. 4) purchased on their account. The three blocks, containing about 440 acres, are given in lieu of lands on settlers' sections. They are also guaranteed in their pas at Kaiwharawhara and Tiakawi.

Also, the Natives of the Ngatitama tribe residing at Kaiwara-Tiakiwi and Ohariu are guaranteed in a pa on Native Reserves 659 and 660, Town of Wellington.⁽¹⁾

3. REMODELLING THE NELSON SCHEME.

In 1845 the directors of the Company were forced to admit that owing to the insufficiency of suitable land it was impossible to carry out in full the original scheme of the Nelson settlement.

"In October, 1845, having been apprised that the locality of the settlement was insufficient for the complete fulfilment of the original plan, and having received various suggestions for the readjustment of the land, the directors drew up and sent out a new plan for such readjustment.

"On 23rd September, 1846, they received the information that the plan proposed had failed to give satisfaction and had, in consequence, been at once suspended by the Company's Agent. On 2nd October they approved this suspension and directed a withdrawal of the plan, so that in fact it was not acted on in a single instance.

"On 26th November, 1846, a despatch was addressed to the Principal Agent explaining the views on which the rejected plan had been drawn up, and authorizing him to apprise the settlers that the directors were prepared to give the fullest consideration to any amended plan.

"In the month of June, 1847, the settlers appointed a committee, and, after successive meetings, adopted unanimously a report and resolutions embodying a plan in which the Resident Agent fully concurred.

"Before that date the directors drew up a proposal for another arrangement, which was almost identical with the plans suggested by the settlers, and transmitted it to their agent in Wellington, with plenary authority either to adopt it or to substitute any other which, after consultation with the settlers, he should deem more advisable.⁽²⁾

⁽¹⁾ Copies of McCleverty's deeds, taken from "Maori Deeds of Land Purchases, North Island, New Zealand," Vol. 2 (Turnbull Library), and plans to these deeds, Vol. 2.

⁽²⁾ Secretary, New Zealand Company, to Earl Grey, 18/2/48: New Zealand Company, 1851-2—Papers relating to surrender of charter, presented to British Parliament, 22/7/51.

The principal proposals were—

- (1) To redistribute the town and suburban lands by means of reselection according to the respective original orders of choice, with the exception of orders representing unsold sections :
- (2) To include as suburban some lands not hitherto laid out as such :
- (3) To permit persons who have improved their suburban sections to take in contiguity thereto their rural sections :
- (4) To suppress or postpone the unsold orders of choice with regard to rural lands.⁽¹⁾

These proposals, which had the effect of remodelling the whole scheme of the Nelson settlement, were adopted by the Company and carried into effect.⁽²⁾ It may be mentioned that the revised scheme was rendered possible, and was certainly desirable, in view of the fact that under one-half of the sections offered for sale in England were actually disposed of at that time. J. W. Cowell in his report to Earl Grey of the 23rd November, 1847, stated that the Company sold 442 properties on allotments to 315 purchasers, of whom eighty, being proprietors among them of 109 properties, proceeded to the settlement at different times. Thus about one-quarter of the purchasers became actual colonists, and upon them depended the foundations of the social scheme of Nelson. The Company emigrated 3,100 souls of the labouring class, of whom about 920 were male adults, and these were to co-operate as labourers and receivers of wages with the eighty colonists, being at the rate of eleven adult male labourers to each colonist.⁽³⁾ Mr. Cowell expressed the opinion that there was, in the Waimea Valley, quite enough land, both agricultural and pastoral, for the profitable engagement of 80 settlers and 920 adult labourers, had that land been properly classified and sold in allotments of different extents according to its varying capabilities and at prices corresponding and appropriate.⁽⁴⁾

In the report of the committee appointed by the Nelson land-purchasers and agents to submit proposals for remodelling the Nelson scheme (published in the *Nelson Examiner*, 3/7/47) there is a reference to the Native reserves :—

“One subject arising out of our proposed plan, but not coming strictly, perhaps, within the scope of our own duties, we yet consider it our duty to make a few remarks upon. We allude to the Native reserves. With respect to the rural sections, it is understood that the Governor, in making the large reserves he has for the Natives at Wairau, has released the Company from laying out and choosing the 100 rural sections according to the original scheme ; but in the case of the town and suburban sections the effect of our proposal would be to allot a much larger proportion than one-tenth of the land actually sold by the Natives. How far, now that the Crown has taken these reserves into its hands, any alteration in them would be sanctioned is a question ; but we would suggest a memorial being addressed to the Governor, with a view to limiting the number of town and suburban reserves to one-tenth of the land actually sold, so as to throw open the remainder for present choice.”⁽⁵⁾

In compliance with the proposition that the Governor be asked to consent to a reduction of the number of Native reserves, Lieutenant-Governor Eyre, in a letter to Colonel Wakefield acknowledging receipt of correspondence, stated,—

“I have no hesitation in assuring you, on behalf of the local Government, that they will be ready to allow the Native reserves to be subjected to the same conditions as the sections of the settlers, and to agree that only such of them be retained as will be proportioned to the altered extent of the Nelson settlement at the rate originally reserved.”⁽⁶⁾

The Lieutenant-Governor's provisional consent was confirmed by the Governor-in-Chief (Governor Grey), who expressed his approval of the proposal that the Native reserves of Nelson should be subject to the same conditions as the sections of settlers with reference to the arrangements contemplated for the reduction and concentration of that township.⁽⁷⁾

The use of the word “township” in the private secretary's letter led to some confusion, and Mr. Fox, the Resident Agent, addressed a letter to the Superintendent of Nelson, inquiring whether His Excellency understood that the application was intended to extend to suburban sections (which it was), and whether his assent was intended to go so far.⁽⁸⁾ No reply to this inquiry is on record, but subsequent events showed that the reduction was not extended to the suburban sections and that only forty-seven town sections were surrendered.

On the 17th March, 1848, the Superintendent of Nelson advised the Colonial Secretary that he had withdrawn the requisite number of town allotments (forty-seven), retaining those with the frontages or that were in localities where they were, or likely to become, most valuable. He further stated that he was instructed by the Governor-in-Chief to exchange a Native reserve (No. 203) for a European section (No. 733), to enable the Nelson School Committee to enlarge their premises, which exchange had accordingly been made.⁽⁹⁾

The following is the list of sections surrendered on behalf of the Native Trust : Nos. 20, 21, 46, 47, 191, 194, 253, 256, 303, 382, 387, 529, 551, 561, 575, 608, 625, 626, 650, 706, 718, 722, 768, 777, 778, 784, 797, 798, 828, 831, 855, 858, 860, 897, 926, 939, 941, 943, 945, 951, 953, 954, 956, 1051, 1084, 1088, 1091 : Total, 47.⁽¹⁰⁾

(1) Enclosure 4, J. S. Tytler to Earl Grey, 19/3/51 : New Zealand Company, 1851-2—Papers relating to surrender of charter, presented to British Parliament, 22/7/51.

(2) J. S. Tytler to Earl Grey, 19/3/51 : *Ibid.* (Tytler was the agent in the United Kingdom for the Nelson Board of Trustees.)

(3) J. W. Cowell to Earl Grey, 23/11/47 : Correspondence *re* New Zealand Company ; ordered to be printed, 1/7/52. (British Parliament.) Mr. Cowell was the Commissioner appointed by the British Government in 1846 to superintend the affairs of the Company.

(4) *Ibid.*

(5) Enclosure 4, Tytler to Earl Grey, 19/3/51.

(6) Lieut.-Governor Eyre to Colonel Wakefield, 25/10/47 : Mackay's Compendium, Vol. 2, p. 272.

(7) Lieut.-Governor to Colonel Wakefield, 21/1/48 : Mackay's Compendium, Vol. 2, p. 273.

(8) William Fox to the Superintendent of Nelson, 5/2/48 : *Ibid.*

(9) Superintendent of Nelson to Colonial Secretary, 17/3/48 : Mackay's Compendium, Vol. 2, p. 274.

(10) *Ibid.*

4. THE WAIRAU PURCHASE.

The original scheme of the Nelson settlement made provision for the reservation of 20,100 acres for the Natives, consisting of 100 town sections of 1 acre each, 100 accommodation sections of 50 acres each, and 100 rural sections of 150 acres each. A hundred town sections were selected in 1842, and subsequently forty-seven withdrawn consequent upon a decision to remodel the township. The accommodation sections were also reserved in the districts of the Moutere and Motueka, but the fatal affray at the Wairau in 1843 and the decision of Commissioner Spain in 1845 to exclude the lands in that district from the Company's grant put a stop to the survey of the rural sections. There still remained to be reserved 15,000 acres, in sections of 150 acres each, to complete the Nelson scheme in accordance with the London prospectus issued in 1841; but this area had been reduced by the Spain award, which reserved for the Natives one-tenth of 151,000 acres. It may be claimed, therefore, that the Natives were entitled to have set apart for them, when lands were available, a further 10,000 acres.

It was the intention of Governor Grey to instruct Lieut.-Colonel McCleverty, who had been sent out by Lord Stanley in 1846 to assist the Company in their selection of land, to adjust the difficulties arising from the loose exceptions made in Governor FitzRoy's grants and to settle the Wairau claim.⁽¹⁾ Circumstances, however, prevented Lieut.-Colonel McCleverty from dealing with matters in dispute at Wairau, and Captain Grey found it necessary to take into his own hands the settlement of that district. In a despatch to Earl Grey explaining that the Company had actually disposed of large quantities of land to European settlers in both the districts of Porirua and Wairau, he stated the decision of Commissioner Spain to disallow the claims of the Company to those districts gave a claim to the Ngatitōa Tribe to a tract of country extending to about 100 miles south of Wairau. He had decided, therefore, to purchase an extensive block of country in the Porirua district, which was important from a military point of view, and the Natives had agreed to accept £2,000 for this land, after securing for themselves a large reserve in one continuous lot. In Wairau he had purchased the district estimated to contain 320,000 acres, and, in addition, the whole tract of country claimed by the Ngatitōas, extending about 100 miles to the southwards of that valley. The purchase price had been fixed at £3,000, payable in five annual instalments of £600 each, and two large reserves had been made.⁽²⁾ The boundaries of the Wairau reserves are described in the deed of cession dated 18th March, 1847.⁽³⁾ The aggregate area of the two blocks reserved was approximately 117,248 acres.⁽⁴⁾

It was understood that the reservation of these two blocks by Governor Grey for the Natives at the Wairau released the New Zealand Company from laying out and choosing the 100 rural sections according to the original plan of the Nelson settlement.⁽⁵⁾

Unfortunately for the interest of the trust estate and the Natives themselves, the two reserves, containing the total area of 117,248 acres, were subsequently included in the Waipounamu purchase of 1853, when the Ngatitōa Tribe conveyed to the Crown by deed of sale executed at Wellington on the 10th August, 1853, all their claims to land in the Middle Island in consideration of the sum of £5,000. Certain reservations were to be made, the extent and position to be determined by the Governor, and certain other lands were promised to some of the chiefs. In fulfilment of these promises an area of 2,939 acres was subsequently reserved in the Wairau district, and two sections of 50 acres each were granted to Te Tana Pukekohatu and Wiremu te Kanae respectively.⁽⁶⁾

5. THE DECLINE OF THE NEW ZEALAND COMPANY.

The year 1841 may be regarded as the peak year of the Company's existence, and had Lord John Russell remained in office all might have been well in regard to its affairs. "Unfortunately," as Dr. Garnett remarks, "for the Britain of the South, though not for the Britain of the North"⁽⁷⁾, the Melbourne Ministry resigned in August of that year, and Peel and the Tories came into power, with Lord Stanley as Colonial Secretary.

"It was but natural that Stanley should not like the Company or its directors. In the first place, they were Whigs with pronounced leanings towards Radicalism; the views of their two spokesmen, Buller and Wakefield, must have been utterly repugnant to him. Secondly, their interpretation of the Treaty of Waitangi appeared to English minds to involve a policy of confiscation, and Stanley, though not evangelical, was a sincerely religious man and a friend of the aborigines. Such was the man with whom the New Zealand Company had now to deal."⁽⁸⁾

The principal bone of contention was the interpretation of Lord John Russell's agreement of 1840, and much correspondence passed between the Company and the Colonial Office. Mr. Somes, the Governor, in one letter protesting against Spain's investigations, claimed that—

"Within the four corners of the agreement we find no single phrase leading us, in the remotest way, to imagine that fulfilment of the grant promised to us on the part of Her Majesty was to be dependent in any manner or degree upon the validity of the Company's antecedent purchases from the Natives. . . . The duty of extinguishing any Native title is the duty of Government alone."⁽⁹⁾

⁽¹⁾ Enclosure in despatch of Governor Grey to Right Hon. W. E. Gladstone, 14/9/46: Great Britain—Parliamentary Papers relating to New Zealand, 1847.

⁽²⁾ Governor Grey to Earl Grey, 26/3/47: *Ibid.*

⁽³⁾ Copy of deed: Mackay's Compendium, Vol. 1, p. 204.

⁽⁴⁾ Report by A. Mackay on Land Purchases, Middle Island: Parliamentary Paper G.-6, 1874.

⁽⁵⁾ See p. 28. See also Mackay's Compendium, Vol. 1, p. 4, and Vol. 2, p. 265.

⁽⁶⁾ Parliamentary paper G.-6, 1874—Return of Land-purchases, Middle Island. NOTE.—The Waipounamu purchase included other dealings with several tribes claiming lands in the Middle Island. Twelve deeds are enumerated on G.-6, p. 2, and the total amount paid to ceding tribes was £6,467.

⁽⁷⁾ "Edward Gibbon Wakefield," by Dr. Garnett.

⁽⁸⁾ "Colonization of New Zealand," by Dr. J. S. Marais.

⁽⁹⁾ Somes to Lord Stanley, 11/11/42: App. 12th Rep., p. 127c.

To this contention the Colonial Office replied that—

“ Lord Stanley cannot allow the assertion that the Company’s title was to be investigated exclusively by Mr. Pennington. The fact of the validity or invalidity of the purchase was known to the Company, and to them alone; the assumed validity was the basis of the promised grant; and if the facts were incorrectly stated at the time, or were incapable of proof, with the Company must rest the inconvenience and loss reverting from their own misstatement.”⁽¹⁾

Commenting on the attitude of the Colonial Office, Dr. Garnett said,—

“ It must in justice to the Government be remembered that their patience had been severely strained by the extravagance of successive Governors of New South Wales, who had among them incurred two or three millions of liabilities, with little visible return. This could not, however, justify the hostile tone towards the Company which Stanley assumed from the first, and his virtual repudiation of the engagements of his predecessor.”⁽²⁾

In another letter Mr. Somes in urging the claims of the Company stressed the point that—

“ They had not failed in discharging those duties towards the Native population which the ordinary improvement of modern feeling requires.

“ But it has been the object of the Company to do even more. From the outset of our undertaking we felt that we should but incompletely discharge the duties which we recognized were we to content ourselves with purchasing from the Natives their interests in the soil by such trifling payments as they would deem ample and as even the improved feeling of our countrymen would consider sufficient.”

Referring to the ultimate fate of the Natives after the present consideration has been squandered, he goes on to say,—

“ It was to guard, as much as human care can guard, against such a result that the New Zealand Company invented the plan of Native reserves. To recompense for the moment and to comply with the exigencies of opinion they had paid down what according to received notions was a sufficient price, but the real worth of the land they thought they gave only when they reserved as a perpetual possession for the Native a portion equal to one-tenth of the lands which they had purchased from him. This was the price which he could not squander away at the moment, but of which, as time passed on, the inalienable value must continually and immensely increase for his benefit and that of his children. Heir of a patrimony so large, the Native chief, instead of contemplating European neighbours with jealous apprehension as a race destined to degrade and oust him, would learn to view with delight the presence, the industry, and the prosperity of those who in labouring for themselves could not but create an estate to be enjoyed by him without toil or work. Nor was this design confined to barren speculation. In every settlement which we have formed, a portion equal to one-tenth, of town as well as rural allotments, has always been reserved for the Natives; in the lottery by which the right of selection was determined the Natives had their fair chance, and obtained their proportion of the best numbers; and in the plans of Wellington, Nelson, and New Plymouth your Lordship may see the due number of sections, including some of the very best in each, marked out as Native reserves. Nor is this, even now, a valueless or contingent estate. At the most moderate average, according to the present rate of prices, the hundred acres of Native reserves in the Town of Wellington alone would fetch no less than £20,000.”⁽³⁾

In the course of a very long letter couched in somewhat different strain, Mr. Somes made the suggestion that the Government should set aside the treaty with the Natives:—

“ We have always had very serious doubts whether the Treaty of Waitangi, made with naked savages by a consul invested with no plenipotentiary powers, without ratification by the Crown, could be treated by lawyers as anything but a praiseworthy device for amusing and pacifying savages for the moment.”⁽⁴⁾

This drew from the Colonial Office a dignified rebuke, which one writer considers “should be recorded in the annals of our history.”⁽⁵⁾

“ Lord Stanley is not prepared to join with the Company in setting aside the Treaty of Waitangi, after obtaining the advantages guaranteed by it, even though it might be made ‘with naked savages,’ or though it might ‘be treated by lawyers as a praiseworthy device for amusing and pacifying savages for the moment.’ Lord Stanley entertains a different view of the respect due to obligations contracted by the Crown of England, and his final answer to the demands of the Company must be that as long as he has the honour of serving the Crown he will not admit that any person, or any Government acting in the name of Her Majesty, can contract a legal, moral, or honorary obligation to despoil others of their lawful and equitable rights.”⁽⁶⁾

As there seemed to be no prospect of obtaining a title to the lands which had already been sold to their settlers, the directors deemed it advisable to suspend their colonizing activities, and they accordingly announced the cessation of land-sales in England and New Zealand, stopped the despatch of emigrants, and reduced salaries and staffs. In May, 1843, negotiations with the Colonial Office were resumed, but ended in disputes over fresh proposals, and by the end of the year the Company’s financial position was becoming serious.

⁽¹⁾ Under-Secretary Hope to Somes, 10/1/43: App. 12th Rep.

⁽²⁾ “Edward Gibbon Wakefield,” by Dr. Garnett, p. 250.

⁽³⁾ Somes to Lord Stanley, 25/1/43: App. 12th Rep., p. 166c.

⁽⁴⁾ Somes to Lord Stanley, 24/1/43: App. 12th Rep.

⁽⁵⁾ “New Zealand and its Colonization,” by W. Swainson. (Swainson was appointed Attorney-General for New Zealand in 1841.)

⁽⁶⁾ Under-Secretary Hope to Somes, 1/2/43: App. 12th Rep.

The directors now realized that their only hope lay in an appeal to Parliament, and on the 30th April, 1844, on the motion of Mr. Aglionby, M.P., one of their members, a Select Committee was appointed to inquire into the state of the Colony of New Zealand, and into the proceedings of the New Zealand Company. "Yesterday," wrote Gibbon Wakefield to his sister, "we declared war to the knife with the Colonial Office." In July the Committee brought out their great report of 1844, which, with minutes of evidence, correspondence, and appendices, ran into a thousand pages of small print, and was in fact a complete history of the Company's operations to date. Although ten out of the fifteen members of the Committee were supporters of the Government, the result of their deliberations was a victory for the Company. The Committee, although it did not approve of the conduct of the directors in sending out settlers to New Zealand in direct defiance of the authority of the Crown, found that the Company had a right to expect to be put in possession by the Government, with the least possible delay, of the number of acres awarded to it by Mr. Pennington, without reference to the validity or otherwise of its supposed purchases from the Natives. The Company's system of Native reserves was praised, and the Government was recommended to apply it throughout the colony.⁽¹⁾

The publication of the report created a sensation, and the press was practically unanimous in condemning the policy of the Colonial Office.

Lord Stanley refused to accept the verdict of the Select Committee. While agreeing with such non-contentious resolutions as the creation of reserves for the Maoris, and the necessity for a tax on unimproved lands, he declined to yield on the main questions. The parliamentary war was continued, and on the 17th June, 1845, the House of Commons, on the motion of Charles Buller, "That this House will resolve itself into a Committee to consider the state of the Colony and the case of the New Zealand Company," commenced a debate on New Zealand which lasted three days. In a powerful speech reviewing the affairs of New Zealand, Buller accused the Colonial Office of being "animated by unrelenting animosity to a colonization begun in opposition to its narrow views, and effecting its purpose by a Commissioner of Land Claims, a rival seat of Government, and a reckless tampering with the wild passions of a savage race."⁽²⁾ The motion was lost on party grounds, but the Company gained its objective in directing public attention to its affairs.

Relations between the Company and the Colonial Office now gradually improved, and the latter agreed to consider the Pennington awards. Major McCleverty, of the 48th Regiment, was sent out to New Zealand by Lord Stanley "to give his best assistance to the Company in the selection of their land"⁽³⁾, Governor FitzRoy had already been recalled and Captain George Grey appointed in his stead, and the directors with renewed hopes laid plans, which were not, however, destined to be fulfilled.

It is unnecessary to deal further with the history of the Company. Its Native reserves had now passed into the hands of the Government, its land troubles were gradually settled by Sir George Grey, and its doings in New Zealand are related elsewhere. Its final years were devoted principally to a series of negotiations with the British Government on matters of finance, and, although it continued for a time to despatch an occasional vessel to the Colony and gave aid to the Otago and Canterbury Associations, its colonizing energies were now expended. In 1846 Gibbon Wakefield suffered a breakdown and was no longer able to direct its affairs. He recovered, however, and after writing his "Art of Colonization" came to New Zealand in 1852, and shortly afterwards entered Parliament.

In 1850 the New Zealand Company surrendered its charter and its property to the Crown. As compensation for the property a lien of 5s. an acre was imposed by the Imperial Parliament on all Crown grants sold in the colony, and was made payable to the Company up to the amount of £268,370. The directors afterwards offered to commute the amount on the immediate payment of £200,000 and by virtue of the New Zealand Loan Act, 1856, this sum was paid in liquidation and full discharge of the debt due to the Company.

In 1858, after nearly twenty years of warfare with the Colonial Office in England and the Government in New Zealand, the Company closed its doors. Attacked by the press and no longer in sympathy with its settlers, its demise caused no regrets. Its policy during its declining years had changed, and its very founder now charged those responsible for its direction with having sold its honour and the interests of the colony for money. Its obituary notice was written by the Attorney-General for New Zealand, William Swainson, who in caustic tones spoke of it as a colonizing association ending its career without giving a single legal title to a single individual of a single piece of land.

With the passing of years a more impartial survey is possible, and it is well to record the views of Admiral of the Fleet Earl Jellicoe, who in his introduction to Dr. Harrop's recent work, "England and New Zealand," says that—

"In spite of errors of administration and other grave mistakes, the New Zealand Company is justly entitled to the gratitude of New Zealand for the great care exercised in its selection of the right type of emigrant, and for its strong advocacy of self-government. The methods of colonization adopted by the Company and the high ideals animating the directors were based upon the desire to introduce into the colony men and women who in their persons would continue the traditions and the institutions of the Mother-country. They were not considering colonization so much from the commercial standpoint as from a desire to see New Zealand settled by a people who would be worthy and fitting founders of a new and virile community."

(1) Great Britain—Report on New Zealand, 1844.

(2) *Hansard*, 3rd Series, Vol. 81.

(3) Lord Stanley to Governor Grey: Great Britain—Papers relating to New Zealand, 1846.

CHAPTER V.—EARLY ADMINISTRATION.

1. SIR GEORGE GREY'S NATIVE POLICY.

It has been said that the Native policy adopted by Governor Grey "was judicious, far-sighted, and founded on sound principles"⁽¹⁾, and attention has already been drawn to his efforts to better the conditions of the Maoris by caring for their health and educating their children. In 1847 he introduced "An Ordinance for promoting the Education of Youth in the Colony of New Zealand," which passed the Legislative Council and subsequently received the Royal assent. In framing this measure, which was to apply chiefly to Maori children, he pointed out that the three religious bodies belonging respectively to the Church of England, the Church of Rome, and the Wesleyans had already made some provision for the education of youth, although their funds for this object were limited and their efforts had been in a great measure lost for the want of centralization. They, nevertheless, formed in the country bodies whose influence and power of usefulness was great, and their energies, if properly directed, appeared capable of accomplishing a great and lasting good. He thought it wiser, therefore, to avail himself of the extensive and really admirable machinery then in existence rather than to waste time and money by attempting to create a system of national education which would cost large sums of money in introducing it, and which would entail a serious loss of time. It was proposed, therefore, to support from the public funds the different religious bodies now in the country, but such support was to be confined to those schools in which a religious education, industrial training, and instruction in the English language formed a necessary part of the system. The Act provided for the establishment and maintenance of schools out of the public funds of the colony, the amount to be advanced in any one year not to exceed one-twentieth of the revenue of the colony.⁽²⁾

In less than two years' time Governor Grey was able to report that his Education Ordinance had proved a success and the desire of the Natives to secure a good education for their children had increased. In one Wesleyan institution alone 130 children were being boarded and taught, and many others were desirous of obtaining admission to the same school. In a despatch to the Colonial Office the Governor pointed out that the difficulty was now to maintain a proper supply of food for the various institutions already in progress, although, as these institutions were conducted on the industrial system, the pupils could, if there were a sufficiency of land at their disposal, not only produce sufficient supplies for their own support, but they would at the same time be instructed in improved modes of agriculture. There was no difficulty in obtaining sufficient land for each school in its immediate vicinity, but without express instructions on the subject he did not feel authorized in conveying lands to these institutions unless they could pay for them in cash. Under the circumstances he felt justified, pending further instructions, in directing that sufficient reserves for the wants of the Maori children to be boarded and educated should be kept apart for the use of each institution; and as a considerable value would be given to these reserved lands by the improvements that would be made upon them, he thought that it would be an equitable rule to allow each religious denomination, at any time within ten years, to purchase these lands at the upset price of £1 per acre, at the same time making it a condition of these grants, that the lands could not be disposed of.⁽³⁾

In signifying his approval of these proposals Earl Grey, Secretary of State for the Colonies, said,—

"Attaching, as I do, great importance to the successful development of such a plan, I do not hesitate to sanction the arrangement which you propose, and I should further be prepared to approve of your granting still more favourable terms, if you should think proper, to such schools, either by allowing the purchase to be made at a lower price than £1, or even by allotting the lands to the schools gratuitously, provided due security could be taken for their proper use. It may, however, be a reason against choosing this last course that one of the best securities for the improvement of the land occupied by those institutions may be derived from their being aware that they will eventually have a moderate price to pay for it."⁽⁴⁾

Referring to Earl Grey's sanction to endow certain Native schools with land, Governor Grey (now Sir George Grey) reported in 1851 that several large institutions conducted respectively by the three Churches were now in full and successful operation, and that grants for the portions of land requisite for the growth and production of the necessities of life required by the children had been issued gratuitously to these institutions, conveying the lands in trust for the use and towards the maintenance of such schools, so long as religious education, industrial training, and instruction in the English language were given. Further, the grants had been enlarged to include "children of our subjects of all races being inhabitants of islands in the Pacific Ocean," as he considered it to be absolutely necessary for the protection of the interests of Christianity and civilization, as also for the protection of the interests of our commerce and shipping, that the inhabitants of these islands should be converted and civilized.⁽⁵⁾

Earl Grey, in his reply, approved of the scheme as being salutary and politic, and expressed his satisfaction of the general sufficiency of the instrument creating the trust.⁽⁶⁾

Numerous grants of Crown lands appear to have been made to different schools, and these call for no comment, but in 1853, for reasons not stated, certain of the New Zealand Company's reserves were included in educational endowments.

(1) "New Zealand Rulers and Statesmen," by William Gisborne.

(2) Governor Grey to Earl Grey, 9/12/47: Great Britain—Papers relating to New Zealand, 1848, p. 48.

(3) Governor Grey to Earl Grey, 22/3/49: Great Britain—Papers relating to New Zealand, 1850, p. 68.

(4) Earl Grey to Governor Grey, 16/10/49: Great Britain—Papers relating to New Zealand, 1850, p. 237.

(5) Sir George Grey to Earl Grey, 29/1/51: Great Britain—Papers relating to New Zealand, 1851, p. 122.

(6) Earl Grey to Sir George Grey, 3/8/51: *Ibid.*, p. 218.

2. THE ANGLICAN CHURCH GRANT.

In 1853 Sir George Grey granted a number of the Native-reserve sections at Motueka—in all, 918 acres—to the Bishop of New Zealand as an endowment for an industrial school for the education of children of both races, and of children of other poor and destitute persons being inhabitants of islands in the Pacific Ocean. The land was conveyed by two deeds of grant, the first of which was dated 25th July, 1853, covering 660 acres, and the second, dated 4th August, 1853, covering 418 acres and 5 perches. The total area granted was thus 1,078 acres and 5 perches, of which 160 acres was Crown land, and 918 acres and 5 perches Native reserves.⁽¹⁾

Schedule of Native Reserves included in Grant.			Number of Acres appropriated out of each Section.	Schedule of Native Reserves included in Grant.			Number of Acres appropriated out of each Section.
Number of Section.	Area.	Block of Section.		Number of Section.	Area.	Block of Section.	
	Acres.		A. R. P.		Acres.		A. R. P.
6	50	6	50 0 0	164	50	L	34 0 24
22	50	22	50 0 0	181	50		
137	50	I	100 0 0	218	50		
138	50			219	50		
145	50			220	50		
146	50	M	29 0 32	221	50	..	500 0 0
147	50			223	50		
157	50			240	50		
159	50	K	7 0 0	241	50	..	
160	50	F	102 0 0	242	50		
161	50			243	50		
162	50	H	41 0 0	Total ..			918 0 5
163	50						

(Copy of grant, Mackay's Compendium, Vol. 2, p. 302.)

A school had already been established at Motueka in 1849 for Native pupils by the Board of Management for Native Reserves, and placed under the charge of the Rev. T. L. Tudor, the resident clergyman of the Church of England. A farm was also established in conjunction with the school, and an instructor appointed for the purpose of training the lads in agricultural pursuits. In his evidence taken by the Religious, Charitable, and Educational Trusts Commission in 1849 the Rev. Tudor stated that—

“A school had been established in Motueka by the Commissioners of Native Reserves, which was placed under my management before the grants were issued. Some time after the school had been established Sir George Grey came over to Motueka. I told him what we were doing there. He said he would make some grants of land to support the school. About a week or two afterwards the official notice arrived of the grants having been made. As far as I know, Sir George Grey went himself to the Land Office and decided upon the selection of the reserves. . . . All the children at the school were Maoris. The latter part of the time the children boarded at the school—both boys and girls.”⁽²⁾

The grant caused much dissatisfaction in Nelson, and was certainly not appreciated by the local Natives. It formed the subject of discussion in the Nelson Provincial Council, and a committee was set up to inquire into the matter. As a result of the Committee's findings a memorial was forwarded by the Speaker, on behalf of the Council, to the Secretary of State for the Colonies, praying that the necessary steps might be taken to set aside the grant, for the following reasons :—

“(1) Because a great deal of the reserves set aside for the benefit of the Natives for purposes other than those contemplated by the terms of purchase of the Nelson Settlement, whereby the funds arising from the same are liable to be expended for the benefit of Europeans and of Natives throughout the Pacific islands, is a violation of the contract in virtue of which the settlement was founded.

“(2) Because by endowing with public lands an institution for educating and industrial training the utmost care should be taken that public property is not made subservient to sectarian religious teaching, and a blow thereby given to religious equality ; but that an institution so founded should be established on a basis which will admit children of all sects and creeds to partake of its advantages. Whereas the grant given to the Bishop of New Zealand and his successors of nearly 1,100 acres of the most valuable land in the district of Motueka is made over (without this necessary restriction) to the head of a particular Church who may use it as an instrument of proselytism and religious aggrandisement.

“That the Council does not question, in the smallest degree, the philanthropic feeling which induced Sir George Grey to endow the institution in question, neither is the Council aware that the Bishop is cognisant of the grant, but for the reasons hereinbefore set forth the Council is of the opinion that His Excellency in his anxiety

(1) Taken from copies of deeds of grant. Grant 1: Crown grant to Lord Bishop of New Zealand. Reg. Nelson, Vol. 1 D, Pt. I, No. 599; dated, 25th July, 1853. Grant 2: Vol. 1 D, Pt. L, 110, No. 600; dated 4th August, 1853.

(2) Third Report of the Religious, Charitable, and Educational Trusts Commission: Appendix to Journal, House of Representatives, 1870, A—No. 3.

to benefit the aborigines has lost sight of the broad rule of justice, which can never be violated, even for a benevolent end, without endangering the object it is intended to serve. And if there be one leading principle which the Council is desirous to see maintained, and which it believes to be essential to the future welfare and happiness of the province, it is that all religious bodies shall stand on a perfect equality in the State, and that no preference or privilege shall be obtained by any one sect or creed to which all others shall not be equally entitled.”⁽¹⁾

An answer was received during the third session of the Council, informing the memorialists that the necessary facilities would be afforded to try the validity of the grants by *scire facias*. The Council, however, resolved that it was inexpedient, for many reasons, to try the validity of these grants in a Court of law, and recommended, in lieu thereof, that under the circumstances it would be better that the General Assembly should be moved to pass an Act to quiet the titles to these and similar grants.⁽²⁾

In 1869 the grants were reported upon by the Religious, Charitable, and Educational Trusts Commission, which had been set up to inquire into the extent and application of various endowments from the Crown upon special trusts for these purposes. The Commission collected a mass of evidence, and found that the Church of England had been granted an amount of land disproportionate to the relative number of Natives of that denomination in the settlement. The attempts to establish a school at Motueka were characterized as failures, and it was considered just that the trusts should be so altered as to give the whole of the Natives of the province a share in the benefits contemplated when the reserves were originally made. The principal witness before the Commission was Mr. Alexander Mackay (afterwards Judge Mackay), who was then the delegate of the Governor for the northern portion of the Middle Island under the Native Reserves Amendment Act, 1862. In his evidence Mr. Mackay stated that the Ngatitama Natives, prior to the grant to the Bishop, resided on a portion of the block, and considerable dissatisfaction was manifested by them at being compelled to remove in consequence, but provision was afterwards made by allotting them land in another part of the estate. He further stated that the school at Motueka was closed in 1864 owing to the whole of the scholars having decamped, and was not reopened until after Bishop Suter’s arrival in 1868.

3. HOSPITAL AND GRAMMAR-SCHOOL ENDOWMENTS.

An endowment for and towards the maintenance and support of a college or grammar school or schools in the Province of Wellington was also made by Sir George Grey in 1853. This grant was comprised of a number of Native-reserve sections at Thorndon, containing in all an area of 10 acres 1 rood 32 perches, together with a small portion of reclaimed land on Lambton Quay.⁽³⁾ The schools were to be conducted on certain principles set out in the deed, and persons of all classes and races inhabiting the colony were to be equally admitted.

The founding of hospitals where whites and Natives should be treated on equal terms was one of the measures adopted by Sir George Grey, who believed that good effects would spring from the establishment of these institutions. In transmitting a report on the Colonial Hospital at Auckland for the year 1848, which showed that a considerable number of Natives had received treatment, the Governor stated that three of these hospitals were in full operation—at Auckland, Wellington, and Taranaki—and a fourth was being constructed at Wanganui, and that when the latter building was completed he thought that a tolerable provision for the medical wants of the Natives would be secured.⁽⁴⁾ In a further report from the Colonial Surgeon of New Munster it was stated that 497 patients had received relief during a single year, and that Natives continued to frequent the hospital from different parts of the country, some of them coming long distances to avail themselves of the benefits of the institution.⁽⁵⁾

In December, 1851, the Governor announced by *Gazette* that certain of the Native-reserve sections at Thorndon were to be set aside as an endowment for or towards the maintenance and support of the hospital lately erected at Wellington for the relief of the sick of all classes of Her Majesty’s subjects.⁽⁶⁾ Certain allotments, containing in all 12 acres and 11½ perches, were accordingly marked out and distinguished on the plans for Wellington as “Hospital reserved lands,” and were vested in the Colonial Secretary and Colonial Treasurer of the Province of New Munster, and the Resident Magistrate of Wellington for the time being, to be held and administered by them in trust for the benefit of the above institution.⁽⁷⁾ In January, 1877, the Government paid to Wi Tako and others the sum of £4,173 2s. 6d. in commutation of the Native interest in the hospital and grammar-school sections.⁽⁸⁾

⁽¹⁾ Votes and Proceedings, Nelson Provincial Council, Session I, 1853–54.

⁽²⁾ *Ibid.*, Session III, 19th March, 1856.

⁽³⁾ Section 604, and part Sections 592, 601, 602, 603, 605, 606, 607, and 608, Hobson and Murphy Streets and Tinakori Road, 5 acres 1 rood 32 perches; Sections 270, 271, 272, 278, and 279, Tory and Vivian Streets and Cambridge Terrace, 5 acres; Lots 3 and 5, Reclaimed Land, 182 Lambton Quay (182 ft.), 1 rood 25 perches: total, 10 acres 3 roods 17 perches. (Deeds Office, Wellington, Register 1, folio 97.)

⁽⁴⁾ Governor Grey to Earl Grey, 10/3/49: Great Britain—Papers relating to New Zealand, 1850, p. 58.

⁽⁵⁾ Governor Grey to Earl Grey, 6/2/51. *Ibid.*, 1851, p. 133.

⁽⁶⁾ *New Munster Gazette*, Vol. 4, No. 3, p. 186, 9th December, 1851.

⁽⁷⁾ Part 584 and part 594, Moturoa Street, 1 acre 2 roods 26 perches; part Sections 539 and 580, Murphy and Mulgrave Streets, 1 acre 2 roods 25½ perches; Section 514, Sydney and Charlotte Streets, 1 acre and 3 perches; Section 636, Tinakori Road, 1 acre and 32 perches; part Section 545, Molesworth Street, 1 rood 20 perches; Section 574, Tinakori Road, 1 acre and 24 perches; Section 591, part Sections 592 and 601, and Sections 602 and 605, between Murphy and Hobson Streets, 4 acres and 6 perches; part Sections, 606, 607, and 608, Tinakori Road, 2 roods 35 perches: total, 12 acres and 11½ perches. (Deeds Vol. 2, folio 306.)

⁽⁸⁾ Native Trust records, and parliamentary paper G.—4, 1878. The latter source shows the amount paid as £4,488 2s. 6d.

4. BOARDS OF MANAGEMENT.

The death of Colonel Wakefield, the Company's Principal Agent, was announced in the *New Munster Gazette* of the 21st September, 1848. His last official act had been to bring to a successful conclusion the adjustment of many differences between the Company and its settlers. A tribute to his memory was paid by Sir George Grey, who said that "he not only possessed abilities of a very high order, but his whole attention and thoughts were directed to the single subject of the advancement of the interests of the country."⁽¹⁾

Mr. Alexander McDonald acted as agent for the reserves at Nelson until January, 1845, when he gave up the trust, apparently in view of the fact that the Native Trust Ordinance was expected to come into operation. From then onwards no one appears to have been in charge until 1848, when the Superintendent of Nelson drew the Colonial Secretary's attention to the unsatisfactory state of the trust, and pointed out that rents were due, lands were lying waste, and the Native hostelries were fast crumbling to ruins.⁽²⁾ This led to the establishment of Boards of Management, and in June, 1848, Messrs. Poynter, Carkeek, and Tinline were appointed to manage the reserves in the Nelson district.⁽³⁾

In Wellington Mr. Henry St. Hill had continued to act as agent for the country reserves, and had gradually assumed control of the town lands, which he administered until June, 1848, when Lieutenant-Governor Eyre appointed Colonel McCleverty, and Mr. D. Wakefield, the Attorney-General, to act with him as a Board of Management.⁽⁴⁾

In a memorandum referring to the reserves, Lieutenant-Governor Eyre stated that—

"It was originally intended to place the New Zealand Company's reserves under the management of trustees, who, without the power of alienation, might make such arrangements for letting or leasing them as would secure the largest pecuniary return, and this return was to be devoted entirely to objects connected with the general welfare, advancement, and improvement of the Native race.

"The trustees who were nominated, however, gradually ceased to act at all, and in the meantime many partial arrangements had been entered into with settlers for the occupation of portions of reserves, but, as these arrangements were not legally binding, the agreements were either kept or not, as best suited the interests of the occupants, and very few rents were paid. As this state of things had continued for a considerable length of time, it seemed absolutely necessary that the Government should at once take the matter in hand and endeavour to turn the reserves to some profitable account. The best way of doing this appears to be by appointing local Boards of Management, under whose inquiries and recommendations the Government can carry out the necessary details. It is essential that the Government should retain in their own hands all control over the reserves, because circumstances have made it desirable that in some instances total alienation of the lands should be sanctioned, as for ordinance purposes, or to provide sites for hospitals, for churches, for public offices, or for other similar indispensable objects of general and public utility, the Government having no land left them in the Province of New Munster available for such important and available purposes. Nor will any injustice be done to the Natives by this arrangement, for already, in order to meet their wishes or requirements, or to adjust disputes relative to land, the Government have given up to them 100 acres reserved as a domain, have purchased also additional sections of land in eligible localities, and have paid considerable sums to parties occupying Native reserves to quit them in order that such reserves might be given over to the use and possession of the Natives themselves; in addition also to which the Government have expended considerable sums in promoting objects or institutions calculated to advance the welfare and interests of the Native race generally, such as building hospitals, &c.

"It may fairly be assumed, therefore, that it would only be reasonable and just that the Government, having done so much for the Natives, and being left without any lands whatever to appropriate to public objects, should reimburse themselves from the lands originally set apart as reserves to be formed for the benefit of the Natives. Already many instances have unavoidably occurred in which the original intention of the reserves has necessarily been departed from; some have been given up to the Natives themselves, some have been exchanged for other lands, and some have been appropriated in other ways equally unavoidable from the circumstances of the colony and the anomalous position of a Government in a new colony without an acre of land at its disposal for the most important public purposes.

"It must be remembered, too, that since the original plan of Native reserves was first brought into operation many and large additional blocks of land not then contemplated have been given over to the Natives. It is proposed, therefore, in all cases where the Government find it necessary, for purposes of public utility or to promote the general advantage, to appropriate any of the reserves that such portions of them should be taken as may be required for the object in view, and that the Native Reserve Fund should be compensated by the Government, allowing a fair and reasonable rate of purchase-money for the land taken."⁽⁵⁾

(1) Governor Grey to Earl Grey: Great Britain—Papers relating to New Zealand, 1849.

(2) Superintendent of Nelson to Colonial Secretary, 18/2/48: Mackay's Compendium, Vol. 2, p. 273.

(3) Superintendent of Nelson to Board of Management of Native Reserves at Nelson, 7/7/48: Mackay's Compendium, Vol. 2, p. 276.

(4) *New Munster Gazette*, Vol. 1, No. 12, p. 65, 12th June, 1848.

(5) Memorandum relative to the Native Reserves by Lieut.-Governor Eyre, 23/6/48: Mackay's Compendium, Vol. 2, p. 278.

Commenting on the foregoing, Mr. A. Mackay said that—

“With reference to the occupation and appropriation of certain of the Company’s ‘tenths’ in the Town of Wellington, the memorandum by Lieutenant-Governor Eyre explains the motive for using these lands for purposes foreign to the original intention, and, while admitting the rights of the Natives to the lands in question, justifies the conduct of the Government in appropriating any portion that may be required for public purposes, on the ground that the Government were placed in an anomalous position without an acre of land at their disposal.”⁽¹⁾

In addition to the exchanges of Motueka reserves effected during the Spain Commission in 1844, the Board of Management at Nelson found it necessary to make further alterations. In a letter from the Crown Solicitor at Nelson, dated 23rd April, 1849, the Acting Resident Agent of the New Zealand Company was informed that His Honour the Superintendent of Nelson had approved of the following exchanges: The Board of Management to receive Section 181 for Native reserve No. 29; No. 210 for No. 74; No. 211 for No. 73; No. 218 for No. 35; No. 243 for No. 36; No. 184 for No. 20.⁽²⁾ This arrangement was considered to be of great benefit to the trust estate, inasmuch as the land taken in exchange by the Board was of superior quality to the land given up.⁽³⁾

Apart from the sixteen sections specially reserved by Commissioner Spain in 1844 for the Motueka Natives, further lands were later set aside for these Natives out of the Company’s reserved “tenths.” In his report of the 26th July, 1870, Major Heaphy refers to a further apportionment of sections at Motueka in 1862 on the recommendation of Mr. James Mackay to certain Natives who had been overlooked on the original payment and in the subsequent distribution of reserves.⁽⁴⁾ From the translation of a memorandum dated 17th December, 1862, it would appear that Mr. James Mackay awarded Sections Nos. 144, 145, 146, and 147 to six Natives for their use; and he also refers to Sections 126, 127, 129, and 132, which were subdivided amongst members of the Ngatirarua and Ngatiawa Tribes. Parts of all these sections are vested in the Native Trustee at the present day.

5. ACTS OF PARLIAMENT.

An Act for the better government of New Zealand, under which a Royal charter was issued altering the present Constitution and giving the colonists representative institutions, was passed by the British Parliament in 1846. Its author was Earl Grey, who in a long despatch dealt with the impolicy of recognizing proprietary rights in the Natives over waste lands, and, in fact, placed a construction on the Treaty of Waitangi which was not strictly orthodox. The despatch and charter would, according to one writer; “have set New Zealand in a blaze from north to south.”⁽⁵⁾ The principal objection to the measure was that it limited the franchise to those who could read and write the English language, a qualification which few Maoris possessed, and thus “gave to a small fraction of Her Majesty’s subjects of one race the power of governing the large majority of her subjects of a different race.”⁽⁶⁾

Sir George Grey set the charter aside, and in 1852 he introduced his own Constitution Act, which, although it excluded the objectionable English test, still disfranchised the bulk of the Native population, who held their lands collectively and therefore could not vote as individuals owning property valued at £50.

When Colonel Gore Browne assumed office as successor to Sir George Grey it was understood that he would have power to act on his own opinion on Native affairs, pending reference to the Colonial Office. The Maoris, who were not represented until 1867, did not understand the new Parliament, and preferred dealing with the Queen’s representative. In 1856 an Act for the management of lands set apart for the benefit of the aboriginal inhabitants of New Zealand, known as the New Zealand Native Reserves Act, was passed. Its object was to place the reserves in the hands of Commissioners, who were given power to lease for twenty-one years, and, with the precedent consent of the Governor in Council, to sell, exchange, or lease for a longer term than twenty-one years.

“This Bill was a step towards the individualization of the communal land rights of Natives, a question as dangerous as it was difficult. Common ownership was a basic Maori custom, and as such was protected by the Treaty of Waitangi and the Constitution. The Bill provided that acts under it should be done ‘only with the advice and consent of the Executive Council’—that is, by Ministers—and the Attorney-General asserted that the subject was not a ‘Native question.’ A number of Legislative Councillors protested to the Governor. Colonel Browne gave his assent, and forwarded the problem to the Colonial Office, which did not overrule him.”⁽⁷⁾

The Commissioners appointed under the Act for the Wellington Province were H. St. Hill, S. Carkeek, R. R. Strang, Rev. T. B. Hutton, Tamehana te Rauparaha, Matini te Whiwhi, and Rawiri Puaha. For the Nelson district Messrs. Domett, Poynter, and Brunner were appointed by the Governor, and during their administration nothing of importance occurred except the granting of one exchange in the Motueka district.⁽⁸⁾

(1) Memorandum by A. Mackay: Parliamentary paper G.—2B, 1873.

(2) Mackay’s Compendium, Vol. 2, p. 281.

(3) *Ibid.*, p. 265.

(4) Appendix to Journals, House of Representatives, D.—16, 1870.

(5) “New Zealand Rulers and Statesmen,” by W. Gisborne.

(6) Governor Grey to Earl Grey, 3/5/47: Great Britain—Papers relating to New Zealand, 1848.

(7) “A History of New Zealand,” by Shrimpton and Mulgan.

(8) Section 142 and part Section 143 (40 acres), Motueka, were exchanged with Charles Thorpe for Section 165. Reference: Copy of deed of exchange, Mackay’s Compendium, Vol. 2, p. 393. The deed refers to Section 165 as containing 90 acres, but, as all the suburban sections were of a uniform area of 50 acres, the exchange must have affected another section also. According to the plans, this other section was undoubtedly No. 180, although the Schedule to the 1873 Act shows Section 165 as containing 90 acres, and omits No. 180.

The New Zealand Native Reserves Amendment Act, 1858, gave the Commissioners power to sue and be sued, and absolved them from personal liability except for acts of wilful neglect or default; but in 1862 another amending Act was passed which dispensed with them altogether, and vested all the powers and authorities hitherto held by them in the Governor and his Executive Council, with power to delegate. The 1862 Act, although it received the Royal assent, was viewed with great apprehension by the Duke of Newcastle, then Secretary of State for the Colonies. His Grace observed, in a despatch to the Governor of New Zealand, that even in England it was thought necessary that the administration of any important trust affecting the management of large landed property should be vested in some permanent body, unaffected by the politics of the day.⁽¹⁾

In accordance with section viii of the 1862 Act the management of the Wellington reserves was delegated to Mr. G. F. Swainson, and Mr. James Mackay, jun., the assistant Native Secretary at Collingwood, was entrusted with the administration of the Nelson district.⁽²⁾ In 1863 the Nelson appointment was conferred on Mr. Alexander Mackay⁽³⁾, who held the office until 1873, when he was appointed a Commissioner under the Native Reserves Act, 1873. The only transactions affecting the reserves between the years 1862 and 1873 were a few exchanges and sales in the Nelson district, comprising 2 acres 1 rood 4 perches of town lands and 14 acres 3 roods 20 perches of country land.

The passing of the Native Reserves Act, 1873, marked an important event in the progress of legislation affecting Native lands. In moving the second reading, the Hon. Dr. Pollen said that the Bill proposed to consolidate and repeal the former Acts and to define what lands should be included in the term "Native reserves." It provided for the appointment of Commissioners and defined their duties, and there was an additional provision under which Natives interested in reserves should be associated with the Commissioners appointed for the respective districts. It was proposed also to give a status to the New Zealand Company's reserves, and to clear up some of the inconveniences which had been experienced in ascertaining and determining the title of persons to portions of the lands which were known as the McCleverty reserves.⁽⁴⁾

The Act never came into practical operation, but it is doubtful whether it was wholly a dead-letter, and, in any case, it is of great importance, as it scheduled the New Zealand Company's reserves for Wellington and Nelson and thus definitely outlined the trusts intended to be created. Section 53 of the Act provided that all the lands enumerated in Schedule D, whether they be lands originally set apart by the New Zealand Company as reserves or whether they be lands obtained in exchange for or purchased in lieu of such reserved "tenths," shall be deemed to have been, from the date of the marking-out of such land on the plans, lands set apart for the benefit of the Aboriginal Natives. Schedule D, which enumerates in full the sections remaining in 1873, shows the area to be as follows⁽⁵⁾ :—

Province of Wellington—						A.	R.	P.
City sections	..	..	..	..	..	38	1	13
Rural sections	..	..	..	..	..	976	2	0
						1,014	3	13
Province of Nelson—						A.	R.	P.
Town sections	..	..	..	..	..	50	2	36
Suburban sections—								
Moutere	..	..	..	..	..	950	0	0
Motueka	..	..	..	..	..	3,017	0	15
Takaka	..	..	..	..	..	150	0	0
						4,117	0	15
						4,167	3	11

From 1873 the different districts were administered by Commissioners until 1882, when a second Native Reserves Act was passed which repealed the existing legislation affecting the reserves. The great object of this measure was to take the reserves out of the control of the Government and vest them in the Public Trustee. The Act also extended the meaning of "reserves" and brought within that term land which would not have been embraced in it under the existing law. Provision was made for the appointment of a Commissioner to conduct the routine business of administration, subject to the direction of the Public Trustee; the word "benefit" was interpreted, and the Public Trustee was directed to apply to the Native Land Courts for the purpose of ascertaining the beneficiaries of the trusts. The Bill had rather a stormy passage through the Lower House before it was finally placed on the statute-book. One honourable Native member compared it with a "fish which was full of bones," but his efforts to extract these "bones" during the Committee stage were not crowned with success.

An amending Act was passed in 1895 which gave the Public Trustee power to renew leases without public competition, and make provision whereby Native minors over sixteen years of age could give valid discharges for moneys received from the Public Trustee; and in the following year a further amendment was passed by Parliament. Under the 1882 Act no proper provision was made for disbursing the revenues derived from the reserved "tenths." The Native Reserves Act Amendment Act, 1896, remedied this defect, and authorized the Public Trustee to distribute three-fourths of the accumulated rents amongst the beneficiaries entitled thereto, and to retain the remaining one-fourth

⁽¹⁾ Duke of Newcastle to Governor Grey, 26/2/63: Great Britain—Papers relating to New Zealand, 1863, p. 132.

⁽²⁾ *New Zealand Gazette*, 1863, pp. 413 and 498.

⁽³⁾ *Ibid.*, 1864, p. 381.

⁽⁴⁾ *Hansard*, Vol. xv, 1873.

⁽⁵⁾ See Appendix at end.

for the "physical, social, and moral benefit of the Natives individually or collectively interested therein, and the relief of such of them as are poor or distressed." The proportion retained thus formed the nucleus of the two "benefit funds" now administered by the Native Trustee. Rents accruing after the 31st March, 1896, were to be apportioned on the basis of one-half to the beneficiaries and the remaining one-half to the benefit funds. It was also deemed necessary to again schedule in the 1896 Act all the lands which comprised the reserved "tenths" in Wellington and Nelson. With a few minor exceptions the Schedule is the same as that contained in the Act of 1873.⁽¹⁾

CHAPTER VI.—COURT INVESTIGATIONS AND PRESENT-DAY MANAGEMENT.

1. THE BENEFICIAL OWNERS OF THE "TENTHS."

Three outstanding events in the history of the New Zealand Company's reserves have been related—the formation of these reserves as part of the Wakefield scheme of colonization, the recognition by the Crown that the lands so set apart by the Company were to be held as reserves for the Natives, and the awarding of portions of these reserves to individual tribes and families by Commissioner Spain and Colonel McCleverty. The final act necessary to complete the trusts, and one which did not take place until fifty years after their formation, was the investigation by the Native Land Court to ascertain the names of the persons beneficially interested in the lands reserved.

The investigation of the Wellington reserves, which took place in 1888 before Judge Mackay, lasted several weeks, and in the course of the inquiry lengthy evidence was given by those Natives who were alive at the time when the New Zealand Company purchased the lands and were able to describe the negotiations with Colonel Wakefield and recall the scenes on the deck of the "Tory." The judgment of the Court, which reviews the history of the Port Nicholson district before the advent of the pakeha, is quoted in full from the Judge's minutes:—

"The object of the inquiry which has led to an investigation of the claim preferred by Kere Ngataierua and others, being members of the four hapus known as Ngatitu, Ngatiro-nganui, Ngatirangitahi, Ngatiruru, to the joint ownership of the tract of land known as the Port Nicholson Block, sold by the Natives in 1839 to the New Zealand Company, was to ascertain who were the *bona fide* owners of that block at the aforesaid date, and for this purpose an inquiry was instituted in respect of the persons who occupied the various Native settlements round the shores of the harbour (Wanganui-a tera)⁽²⁾—viz., at Te Aro, Kumutoto, Pipitea, Tiakiwai, Pakuae, Kaiwharawhara, Ngauranga, Pito-one, and Whaiwhetu, inclusive of others living at Ohariu and elsewhere on the western side.

"In the course of the inquiry it was alleged by Kere Ngataierua that at the time the Company bought the land in 1839 the eighty-four persons enumerated by him were residing at Tiakiwai and belonged to these hapus, and he claims on their behalf that they were joint owners of the territory sold to the Company by the other hapus.

"For the purpose of determining the matter it is necessary to start from the period of time when the northern tribes made their first inroads over this part of the North Island. It has been ascertained from other sources that the first body of the northern Natives who came south was a marauding party of the Ngapuhi and Ngatitua under Waka Nene Patione, Te Rauparaha, and other leaders. The first conflict that took place on the way south was with the Ngatiruanui, and after fighting their way down the coast they ultimately reached Otaki, where the party rested for awhile.

(1) The following sections shown as reserves in 1873 were omitted from the 1896 schedule:—

(a) Section 205, Nelson: Sold to the Provincial Government in 1874 for a site for a public school; consideration, £200. (Appendix to Journals, House of Representatives, 1874, G.-5e.)

(b) Sections 22 and 24, Makara (Wellington District): Vested in the beneficial owners and subsequently sold by them. (Native Trust records 41/61.)

The following reserves scheduled in the 1896 Act no longer form part of the "tenths":—

(a) No. 58, Picton Suburban; 46 acres and 2 perches: Shown on parliamentary paper G.-7 of 1883 as the Tuamarina Reserve, used for timber purposes by the Natives.

(b) Section 9, Takaka; 150 acres: Vested in Native owners and subsequently sold, with the exception of 5 acres. (Native Land Court records.)

(c) Sections 19 and 21, Ohiro; 175 acres (Polhill Gully): Vested in the Public Trustee but beneficially owned by a separate group of Natives. (Native Trust records 6/60.)

(d) Sections 12 and 13, Ohariu; 201 acres 2 roods; originally administered by Native Reserves Commissioners: Section 13 granted to individual beneficiaries, and Section 12 remaining as a reserve vested in the Public Trustee but beneficially owned by separate Natives. (Native Trust records 6/50.)

(e) Sections 2, 3, and 4, Pakuratahi; 300 acres: See explanation, page 46 (Appendix).

(f) Section 132, Mangaroa; 100 acres: Transferred to the Native owners in terms of section 42 of the Maori Land Claims Adjustment and Laws Amendment Act, 1907.

(g) Sections 89 and 90, City of Wellington: Sold to the Crown for £500 as a site for the barracks at Buckle Street. Deed No. 19, dated 24/3/74, Deeds of Purchase, North Island. The deed, as translated, recites that "The chiefs and people of the town and environs of Wellington City, on behalf of themselves, their relations, and descendants, have by signing this deed under the shining sun of this day parted with and for ever transferred unto Victoria, Queen of England, her heirs, the Kings and Queens who may succeed her, and their assigns for ever," their interest in the land for the above consideration.

(h) Section 118, Motueka, is now included with Section 27, Square 9, Sandy Bay. It was allotted by the Native Reserves Commissioner prior to 1896 for the use and occupation of a separate group of Natives, and no longer forms part of the "tenths."

(2) Whanganui-a-Tara.

"The hostile party then continued its course, destroying numbers of the residents on the way, and ultimately reached Wanganui a tera, then occupied by the Ngatikahununu, who, alarmed at the approach of the invaders, had fled to Wairarapa, where they were pursued and slaughtered in large numbers, the fugitives escaping to Aarere (Ahuriri), from whence they finally took refuge at Nukutaorua, on the Maihia Peninsula. After the raid was over, the war-party returned north, but Rauparaha, who had perceived the value of the country, had conceived an idea of leaving the ancient possessions of his people at Kawhia for the purpose of settling at Kapiti. After a period of repose and rest in commemoration of the southern victories, Rauparaha began to prepare his plans for returning to Kapiti. After making the necessary arrangements he started south and was joined at Taranaki by a party of Ngatiawa under Wi Kingi Rangitakei, Rere te Wangawanga, and ultimately settled down at Kapiti about the year 1820. About six years (1826) after this, Rauparaha was attacked at Waiarua (Kapiti) by a large party of the former owners as well as members of other hapus. A number of tribes joined in the attack, including people from the South Island. The attacking party were repulsed with great slaughter, and no further attempt was made after this to dislodge Te Rauparaha's party.

"For many years, until the arrival of additional migrations from the North Island about 1827, the country south of Kapiti was not much occupied by the invaders. The first people to take possession of the Port Nicholson district were the Ngatimutunga. About this time also the Ngatitama and Ngatiawa settled at Ohariu and other places on the coast south of Porirua.

"A few years before the Ngatimutunga migrated to the Chathams, Patukauwenga, one of their principal men, made a present of part of the Hutt district about Whaiwhetu to Te Matehou in payment for revenging the death of some of the Ngatimutunga killed by Ngatikahununu, and on the Ngatimutunga leaving for Chathams in 1839 the Ngatiawa, who had been living for some time in the Wairarapa, where they had gone on a fighting expedition, returned to Wellington and took possession of all the district formerly owned by the Ngatimutunga, and were found in possession by the New Zealand Company in 1839, to whom they sold this territory in the same year.

"Tupawa, who conducted the case on behalf of the claimants, contended that some of the hapus of this party took part in the early conflicts that led to the conquest of the Port Nicholson district. This, however, is not supported by reliable evidence, and it is deemed impossible from the then existing state of affairs that such was the case. According to the testimony of Kere Ngataierua, chief witness on that side, the hapus who it is now asserted were joint owners of the territory sold to the company did not arrive in the district before the year the land was sold, and that they came at the invitation of the Ngatitama, who were residing at Ohariu. This, it is asserted by the other side, did not confer any territorial rights, as the land had been already disposed of to the company.

"The statement that all these hapus were residing at Tiakiwai is not borne out by the evidence given by the other side; neither is it supported by the testimony of Europeans who arrived by the 'Tory.'

"It is stated by those who were competent to form an opinion at the time that there were only three or four families living at Tiakiwai and Pakuao in 1839, and this is borne out by the evidence now given before the Court.

"The hapus described by Kere Ngataierua as inhabitants of Tiakiwai in 1839 do not appear to have taken up their abode there until about 1847, at the time of the hostilities between the Natives and Europeans at the Hutt, and it is asserted that the partial cause of this is that they were engaged in roadmaking.

"One point that has been argued in favour of the contention that these hapus were owners of the land at the time it was sold to the Company is the subsequent setting-apart of lands, in which reserves they claim to be interested, by Colonel McCleverty in 1847; but this cannot be accepted as a proof of ownership as no inquiry was then made into the matter. All that Colonel McCleverty did was to award land to the people whose cultivations were scattered about amongst the settlers' sections, to induce them to relinquish these lands in order to render them available for Europeans who had purchased them from the New Zealand Company. It will have to be borne in mind that these hapus had then become resident in the district (about six years) and would probably have made cultivations about the district by that time, which would probably give them a right to be considered at the time the awards were made. But any right they may have acquired is confined to these awards, and does not confer any right of tenure to any other portion of the territory included in the sale to the Company in 1839. It does not appear, however, that they placed much value on these reserves made in 1847, or looked on them as their own, as they shortly after shifted to the Hutt Valley and occupied land belonging to the Government, where they remained until their final departure from the district.

"The only hapus that would have been justified in making a claim to the territory sold by the Ngatiawa in 1839 were the Ngatitao; but the only part of the country they preferred a claim to was the Porirua district, for which they received a final payment in 1847. It will be seen, therefore, that although the Ngatitao and the other hapus conquered the district in 1817 they made no attempt to prefer a claim to the land against the resident hapus at the sale to the Company in 1839, but allowed them to sell such portions as they were considered to be entitled to. The Court is therefore of opinion that the Port Nicholson Block at the time it was sold to the Company was the property of the hapus of the Ngatiawa and Ngatitama then in occupation, and that the four hapus—viz., the Ngatitu, Ngatironganui, Ngatirangitahi, and Ngatiruru—had acquired no rights of ownership through residence over the land in question that would justify a claim being now preferred on their behalf."⁽¹⁾

(1) Wellington Minute-book 2/130 (Native Land Court).

The investigation of the New Zealand Company's "tenths" at Nelson came before Judge Mackay in 1892, when, on the application of the Public Trustee, the Native Land Court proceeded to ascertain the persons beneficially interested in these reserves. In the course of the inquiry it was found that five sets of claimants preferred a right to the land from various causes. After referring to the original deeds of purchase, the subsequent deeds of release, and the Spain awards, the Court, in dealing with the five claims set up, stated in its judgment that—

"(A) The first of these claims was made by Tupoki Herewine Ngapiko on behalf of the Ngatirarua, for whom Mr. Pitt appeared as counsel. The claim was based on—(1) Conquest; (2) occupation; (3) the sale of the land to the New Zealand Company; (4) the participation in the goods distributed and the money paid to the resident Natives in the years 1841 and 1844.

"(B) The second claim was made by Ihaka Tekateka on behalf of the Ngatikoata and Ngatitua, and a section of the Ngatitama and Ngatiawa. This claim was based on—(1) Conquest; (2) the gift by a former owner, called Tutepourangi, of all the country, including the Island of Rangitoto, from the Croixelles to Separation Point (Te Mataau); (3) occupation; (4) the sale to the New Zealand Company and consequent participation in the payments made. This claim was conducted by Hohepa Horomona.

"(C) The third claim was made by Huria Matenga, of the Ngatitama Hapu, and was conducted by Hemi Matenga. This claim was based on—(1) Conquest; (2) occupation; (3) the sale by Wi Katene, the claimant's father, to the New Zealand Company of the land at Nelson and Waimea; (4) the payment made to him by the Company for these lands.

"(D) The fourth claim was made by Hohai te Rangiauru, of the Ngatiawa Hapu, and was conducted by Pamariki Paaka. This claim was based on—(1) Conquest; (2) occupation; (3) the sale to the New Zealand Company of the land comprised in the Nelson Settlement.

"(E) The fifth claim was preferred by Meihana Kereopa on behalf of the Ngatikuia and Rangitane Hapus, and was conducted by Reimana Nutana. This claim was based on—(1) Ancestral right; (2) occupation; (3) the sale of the lands to the Company.

"The chief points for consideration were three:—

"(1) Whether all the land to the south of the Native boundary at Waihi and extending to Separation Point was included in the gift made by Tutepourangi to Ngatikoata; and, if so, whether the force of this gift was not afterwards set aside by subsequent events.

"(2) Whether the land comprised in the Nelson Settlement was fully acquired by the conquest of the original owner by the Ngatitua, Ngatikoata, Ngatiawa, Ngatitama, and Ngatirarua Hapus.

"(3) Whether the former owners retained any right to the land after the conquest.

"Touching the first point, the Court is of opinion that the evidence did not support the statement that all the lands from the southern boundary of the land now owned by Huria Matenga and extending to Separation Point was included in the gift by Tutepourangi to the Ngatikoata. With reference to the second point, the Court considers that the evidence discloses that the right to the land was fully established, in addition to the conquest, by the occupation of it by the several hapus who were found in possession on the arrival of the New Zealand Company. As regards the third point, the Court is of opinion that the right of the former owners was entirely extinguished by the conquest of Te Rauparaha and his allies, and that at the time the land was sold they were living in a state of subjection to their conquerors; consequently the Court dismisses this claim.

"In addition to the foregoing, there were two other points for consideration, viz:—

"(a) In what position are the rights of the claimants of certain hapus who had assisted in the conquest but who had not occupied prior to the year 1840?

"(b) Who are the persons of these hapus whose rights have not been prejudiced in this manner?

"In the opinion of the Court, the members of the hapus who took part in the conquest under Te Rauparaha who did not occupy the land comprised within the Nelson Settlement up to the year 1840 lost their right to it, as no rights of ownership were exercised by such persons as would confer a proprietary right to the soil, it being a recognized principle of Native custom that conquest alone without occupation confers no right.

"The hapus who retained their right after the conquest through residing on and cultivating the land are the Ngatirarua, the Ngatitama, Ngatiawa, and Ngatikoata.

"As regards the Ngatitua claim, this hapu, although it took part with the other hapus in conquering the country on the south side of Cook Strait, did not occupy any portion of the territory gained in that manner within the Nelson Settlement. The only places retained by that hapu in the South Island were situated at Cloudy Bay, the Wairau, and the Pelorus. These were the only places in the *bona fide* possession of this hapu at the foundation of the colony; consequently they had not acquired any proprietary rights in any other part of the territory conquered from the original owners. Under these circumstances the claim preferred by the Ngatitua to a beneficial interest in the New Zealand Company's "tenths" in the Nelson Settlement must be dismissed.

"The Court is of opinion that the territory comprised within the Nelson Settlement at the time of the sale to the New Zealand Company was owned by the Ngatikoata, Ngatitama, Ngatirarua, and Ngatiawa in the following manner, viz.: That the Nelson district, comprising 11,000 acres, belonged to the Ngatikoata and the Ngatitama; that the Waimea district, comprising 38,000 acres, was the common property of the four hapus previously

named, through the conquest; that the Moutere and Motueka district, comprising 57,000 acres, belonged to the Ngatirarua and the Ngatiawa; and that the Massacre Bay district, comprising 45,000 acres, belonged to the Ngatirarua, Ngatitama, and Ngatiawa: and that, although the reserves made by the Company were situated in certain localities, the fund accruing thereon was a general one in which all the hapus who owned the territory comprised within the Nelson Settlement had an interest proportionate to the extent of land to which they were entitled at the time of the sale to the Company.”⁽¹⁾

In February, 1901, Judge Mackay, on application by the Public Trustee, investigated those sections in Motueka which had been originally set apart by Commissioner Spain for the use and occupation of the resident Natives, together with certain other sections which had been set apart for similar purposes by Mr. James Mackay in 1862.⁽²⁾

As a result of the Court's investigations an area of 935 acres which had originally formed part of the Nelson “tenths” was declared to be beneficially owned by separate groups of Natives. At the time of inquiry it was found that 713 acres approximately were under lease to Europeans, and the balance of 222 acres occupied by the resident Natives. The latter area was accordingly declared to be reserved for the use and occupation of these resident owners, who were allowed to remain upon the land rent-free on condition that they cultivated such lands for themselves and did not lease to outsiders. The special conditions pertaining to these reserves were summarized by Judge Mackay, who stated that—

“In order to make the position intelligible it is necessary to explain that the sections comprised in the several Motueka accounts form parts of certain sections pertaining to the New Zealand Company's ‘tenths’ which were specially allotted to certain Natives for their use and occupation, and with their concurrence such portion as they did not actually need and were desirous to let to European tenants were leased by the Commissioner, and the rents accruing thereon were paid separately to the individual Native whose land was comprised in the lease to A, B, C, or D, as the case might be. As these leases were not all granted at the same time or for the same periods, on the lease to A terminating and the Native to whom the land belonged resuming possession he ceased to participate in the rent accruing on the section, and his particular portion was again leased. It is possible, therefore, under the system followed in your Department of paying all the rents accruing in the several sections into separate accounts, and in distributing in proportionate shares the money so credited amongst all the persons included in the original list of recipients, irrespective of whether the leases under which they specially derived still existed, that the Natives who were actually entitled have had their income diminished in consequence.

“The ‘tenths’ in the Motueka district occupied by the Natives are in a peculiar position, as these lands are practically the property of the Natives to whom they were allotted, although vested in the Public Trustee under the Act of 1882 and amending Acts, having been allotted to them by Mr. Commissioner Spain in 1844 in conformity with an arrangement made by Captain Wakefield, the New Zealand Company's Agent, that they should retain a considerable portion of the part then known as the ‘Big Woods’ at Motueka, then in cultivation by them.

“Mr. Spain was clothed with plenary powers, consequently any act performed by him was the act of the Crown itself, and, although subsequent colonial legislation has placed these lands under statutory control, the Natives specially entitled to these lands under the original arrangements remain the virtual owners.”⁽³⁾

2. THE SECOND NATIVE TRUST ACT.

The Public Trustee continued to manage the Native reserves committed to his charge by virtue of the 1882 Act until 1921, and during his administration nothing of great importance occurred. A few years after his appointment as Commissioner Mr. A. Mackay was elevated to the position of Native Land Court Judge, and from then onwards the work in connection with the reserves came within the scope of the Public Trust Office administration.

In 1920 the Government of the day decided that it would be in the interests of the Maori race to appoint a separate and special trustee of Native moneys and Native lands, and a Bill to provide for the appointment of a Native Trustee and to make better provision for the administration of Native reserves was introduced. The first Native Trust Act was Governor FitzRoy's Ordinance of 1844, which, although it received the Royal assent, was not brought into operation owing to the fear that sectarian controversies would result in carrying out its provisions. The Native Trustee Act of 1920 was a very different measure, and met with almost unanimous approval. In introducing the Bill, Sir William Herries, Native Minister, said that the basis of the measure arose from the report of a Commission appointed in 1912 to inquire into the affairs of the Public Trust Office, which recommended that the whole of the Native reserves and their administration should be vested in an independent body. It was proposed, therefore, to separate the Native part of the Public Trust business from the pakeha part, and to set up another body—the Native Trustee—to whom would be transferred all the reserves already held in trust by the Public Trustee. The Bill also made provision for lending to Natives who held land in severalty. He pointed out that other Government lending Departments

(1) Nelson Minute-book 3/1.

(2) The sections set apart in conformity with the Spain award, after adjusting subsequent exchanges, were 157, 160, 161, 162, 163, 164, 165, 181, 182, 183, 184, 187, 188, 210, 211, and 212. The sections set apart by Mr. James Mackay in 1862 were 126, 127, 129, 132, 144, 145, 146, and 147. Parts of these sections were included in the grant to the Bishop of New Zealand.

(3) Extract from memorandum from Judge Mackay to the Public Trustee, 22/9/99. (Native Trust records 6/23A/1.)

could get sufficient applications from the pakeha, and naturally they did not care to deal with Native securities. The Native Trustee would, as far as possible, deal with Natives alone. At present, he said, the Natives were forced to go outside to borrow, at high rates of interest, and, although such transactions were subject to the approval of the Governor-General in Council, he thought it far better to have all these mortgages in the hands of the Government and the Native Trustee, so that he (the Native Trustee) should be practically the sole source from which money was advanced to Natives.

The first and present Native Trustee appointed is a Judge of the Native Land Court with wide experience in Native affairs. On the 1st April, 1921, all Native reserves, and all Native trust funds, including those of the different Maori Land Boards, were transferred to his control. Since then his powers have been considerably widened by amending legislation, and to-day he is the statutory trustee for all Natives under disability, including minors, mental patients, and convicts; while he also acts as executor or administrator for Native estates, and controls the Maori war funds. All available moneys are lent by him at very reasonable rates of interest to Natives upon the security of their lands.

The New Zealand Company's reserved "tenths" are now on a satisfactory business footing. With the exception of the Motueka occupation lands, which now comprise an area of 138 acres, the reserves are all leased for terms of twenty-one years, with perpetual right of renewal. In 1924 the Nelson reserves were surveyed and the titles brought under the provisions of the Land Transfer Act. In the same year a movement was on foot in Nelson to give the leaseholders an opportunity of acquiring the freehold on terms equitable to all parties; but it was ascertained later that the majority of the beneficial owners were not in favour of the proposal, which was consequently dropped.

According to the last Government valuations, which were made between 1916 and 1921, the Company's reserves in Wellington are worth to-day £105,000, and in Nelson £101,750. The figures quoted are the unimproved values, as the improvements belong to the tenants. Buildings and other improvements put on the lands are valued in Wellington at £40,000, and in Nelson at nearly £120,000, so that the total capital value is nearly £367,000. A revaluation of Wellington which is now in progress will no doubt show a big increase in the figures for that city, and it must be remembered that the town sections remaining are all outside the business area.

The wheel of time brings many changes. To-day only a small portion remains of that extensive area which the New Zealand Company, in establishing their settlements at Wellington and Nelson, proposed to set aside for the benefit of the "chiefs, their tribes, and heirs for ever." Had the Company been able to reserve and keep intact 11,110 acres and 20,100 acres in the Provinces of Wellington and Nelson respectively—the area which it was intended to retain under the Wakefield scheme of colonization—the value of the lands at the present time would not be far short of a million sterling. The founders of the Company were men of high ideals, who were sincere in their desire that the interests of the Native race should be safeguarded. The chief fault was the lack of proper inquiry into the validity of the titles supposed to be conveyed by the Native vendors, and in this the Company cannot be held wholly to blame. To Edward Gibbon Wakefield, more than to any other man, is due the credit of placing New Zealand on the map of the British Empire, and to Wakefield also must be given the credit of planning a system of Native reserves designed to prevent the Maori people from becoming landless through the colonization of their country by the pakeha. When the time comes—as it surely will—for a more becoming memorial to the founder of Wellington than the wooden effigy which at present surmounts the Albert Hotel in that city, it would be a graceful tribute if a small portion of the funds held by the Native Trustee on behalf of the beneficial owners of the "tenths" was devoted to so worthy an object. The centenary of the commencement of Wakefield's work in the colonization of New Zealand is approaching: it is proper that it should be fittingly recognized.

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- House of Commons: Reports on New Zealand, 1840 and 1844. The great report of 1844 contains over one thousand pages of close print.
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- Ordinances and statutes of the New Zealand Government.
- Appendices to Journals of the House of Representatives.
- New Zealand Government Gazettes.*
- New Munster Gazettes.*
- Votes and Proceedings of the Provincial Councils for Wellington and Nelson.
- Parliamentary Debates (*i.e.*, *Hansard*).
- Mackay's Compendium.
- Maori Deeds of Land-purchases, North Island of New Zealand (Turnbull Library).

OFFICIAL RECORDS.

- Records of the Lands and Survey Department, the Deeds and Land Transfer Office, and the Native Trust Office. The latter include all records of the Public Trust Office dealing with Native Reserves.
- Minute-books and Orders of the Native Land Court.

NEW ZEALAND COMPANY'S REPORTS.

The Company published thirty-five reports altogether, with a mass of correspondence in the form of Appendices. The Appendix to the 12th Report contains all correspondence of importance to the end of 1843. These reports are very rare, and the only complete set in Wellington is contained in the Turnbull Library.

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APPENDIX.

RETURN OF THE NEW ZEALAND COMPANY'S RESERVED "TENTHS," SHOWING LANDS ORIGINALLY RESERVED, LANDS AWARDED FOR VARIOUS PURPOSES DURING THE PERIOD 1840-73, AND LANDS REMAINING AS RESERVES IN 1873, THE AREAS OF WHICH ARE RECONCILED WITH SCHEDULE D OF THE NATIVE RESERVES ACT, 1873.

WELLINGTON CITY.

	A.	R.	P.
Originally reserved in 1840	110	0	0

AWARDS AND ENDOWMENTS FOR VARIOUS PURPOSES.

McCleverty Awards.

Te Aro Natives, 22/3/47—			
Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 22, 23, 24, 25, 26, 27, 28, 37, 39, 41, 43, 45, and 49 (in vicinity of Aro Street)	31	0	0
Pipitea Natives, 1/11/47—			
Sections 633, 634, 635, and 637 (Tinakori Road and Harriett Street)	4	0	0
Also seven sections known as Moturoa's—viz., 40, 42, 44, 46, 109, 111, and 113 (Abel Smith Street)	7	0	0
Also small portion of reserve No. 542, containing about 1 chain (off Mulgrave Street) Subsequently purchased by Bishop of New Zealand.	0	0	17
Ngatitama Natives residing at Kaiwara, Tiakiwi, and Ohariu—			
Sections 659 and 660 (Grant and Tinakori Roads)	2	0	0
These Natives were guaranteed in a pa situated on these reserves.			

Miscellaneous Grants and Endowments.

	A.	R.	P.
Hospital endowment, 1851—			
Sections 594 and part 584	1	2	26
Part Sections 539 and 580	1	2	25½
Section 514	1	0	3
Section 636	1	0	32
Part Section 545	0	1	20
Section 574	1	0	24
Sections 591, and parts 592, 601, 602, and 605	4	1	6
Parts Sections 606, 607, and 608	0	2	35
	12	0	11½

Within boundaries of Murphy Street, Hobson Street, and Tinakori Road.

College and Grammar-school endowment, 1853—			
Section 604, and parts 592, 601, 602, 603, 605, 606, 607, and 608 (within boundaries of Murphy Street, Hobson Street, and Tinakori Road) ..	5	1	32
Sections 270, 271, 272, 278 and 279 (Vivian Street, Tory Street, and Cambridge Terrace)	5	0	0
	10	1	32

NOTE.—The total area included in this grant was 10 acres 3 roods 17 perches, but of this quantity 1 rood and 25 perches was reclaimed land.

Grant to A. McDonald, who claimed land purchased by Robert Tod from the aborigines, presumably before the New Zealand Company's purchase. Claimant was granted 2 acres 2 roods 31 perches adjoining Mulgrave, Pipitea, and Murphy Streets on 21/4/49, of which the following were part Native-reserve sections:—

	A.	R.	P.
Part 542	0	3	0
Part 539 (approximately)	0	0	26½
Part 543	0	2	27
Part 580	0	0	28
Part 584	0	1	14
	2	0	15½

The balance of Tod's grant was European land. (Deeds reference, Vol. 1, folio 4.)

Grant to Porutu and family—			
Part 542 (Mulgrave Street)	0	0	27½
See return, Appendix to Journals, House of Representatives, F.-4, 1871.			

Grant to Wi Tako (Wiremu Tako Ngatata)—	A. R. P.
Section 487 (Lambton Quay and Woodward Street)	1 0 0
See parliamentary papers A.-17, 1867; C.-2, 1870; and F.-4, 1871. (6 $\frac{3}{4}$ perches afterwards purchased for Congregational Church.)	
Grant for Moturoa Settlement and certain Natives—	
Section 593	1 0 0
The history of this section is not clear. Plans at the Survey Office, Wellington, show that a part was granted by Sir George Grey to James Heberley, and other parts to certain Natives, including Hare Parata. It thus became part of Pipitea Pa. Parliamentary return F.-4, 1871, shows it as part of Moturoa settlement, and part granted to Hare Parata and others. Section not included in McCleverty awards. No record of same in Deeds Office.	
Grant to Pipitea Natives—	
Part Section 545	0 2 20
This section was made up of two irregular triangles, one of which, located within Pipitea and Molesworth Streets, was included in Hospital grant. The other portion, on Lambton Quay (now Thorndon Quay), was, according to records of Lands Department, granted to Pipitea Natives and became portion of Pipitea Pa.	
Grant to Wiremu Tako Ngatata—	
Section 19	1 0 0
Reference, L.T. Warrant No. 36. This section is shrouded in mystery. It was not included in Mein Smith's selections, and was therefore not originally a town-acre reserve. Smith's selections were actually one short. In 1847, however, it was shown as a reserve on a plan signed by Colonel McCleverty. This plan is attached to the Crown grant for Wellington, and is therefore the official plan. Colonel McCleverty did not include the section in his awards, but in 1873 it was Crown-granted to Wiremu Tako Ngatata. There is nothing on record at the present day, either in the Lands or Deeds Office, to show how Wiremu Tako became entitled to the land. Section situated corner Epuni and Aro Streets.	

Total grants made from 1840 to 1873	72 2 3 $\frac{1}{2}$
Balance of land which should be remaining in 1873 ⁽¹⁾	37 1 36 $\frac{1}{2}$
Originally reserved	110 0 0

WELLINGTON COUNTRY RESERVES.

Originally reserved in 1842	A. R. P.
.. .. .	4,200 0 0

McCLEVERTY'S AWARDS.

Te Aro Natives, 22/3/47—	
Part Section 7, Kinapora	41 2 16
Part Section 8, Kinapora	108 3 24
Section 91, Ohariu	139 2 26
Section 15, Ohiro	114 0 0
Waiwetū Natives, 30/8/47—	
Section 57, Lower Hutt	125 0 0
Part Section 58, Lower Hutt	15 0 0
Ngahauranga Natives, 4/10/47—	
Section 6, Harbour District	112 0 0
Petone Natives, 13/10/47—	
Section 58, Taita	91 0 6
Sections 1, 2, 3, 16, and 20, Hutt	556 3 16
Section 42, Hutt	152 0 36
Section 11, Horokiwi	102 2 16
Section 5, Harbour	104 0 0
Ohariu and Makara Natives, 18/10/47—	
Sections 77 (? 17), 88, and 97, Ohariu	351 2 7
Section 98, Ohariu	131 2 9
Sections 37 and 39, Makara	200 0 32
Part of 500-acre block at Kaiwarawara	167 1 0
Pipitea Natives, 1/11/47—	
Part of 500-acre block at Kaiwarawara	134 0 0
Part Section 7 and whole of Section 9, Kinapora	221 0 0

⁽¹⁾ The actual land remaining in 1873 according to the Schedule to the Native Reserves Act, 1873, was 38 acres 1 rood 13 perches, made up of following sections, all of which are located in Newtown: 89, 90, 864, 893, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1081, 1082, 1098, 1099, 1100 (all of 1 acre each), and part Section 543 (containing 1 rood 13 perches). The difference of 3 roods 16 $\frac{1}{2}$ perches which is in favour of the reserves is evidently made up of variations on subsequent surveys.

MISCELLANEOUS AWARDS AND SALES.

	A.	R.	P.
Sections 1 and 4, Lowry Bay	200	0	0
Sold by direction of Sir George Grey in the year 1866, and the proceeds invested on behalf of the Waiwetu Natives in sections at Palmerston North. These sections are now administered by the Native Trustee. See parliamentary paper G.-7, 1883, and Native Trust Office records 6/58 (memo. by A. Mackay).			
Town Country Sections 6 and 7	200	0	0
Were, according to the Native Trust records, sold by direction of Sir George Grey and proceeds paid to Native Reserve Fund.			
Section 39, Wainuiomata	100	0	0
Was, according to parliamentary paper A.-17, 1867, given by Sir George Grey to Waiwetu Natives.			
Sections 98 and 102, Upper Hutt	200	0	0
Were, according to parliamentary paper F.-4, 1871, granted to Taringa Kura.			
Section 20, Ohiro	100	0	0
Was, according to the Native Trust records, sold with the consent of the Governor.			
Balance of Kaiwarawara Block	204	0	0
The balance of the Kaiwarawara Block, containing 204 acres, appears to have been granted to Kaiwarawara and Ohiro Natives, according to Parliamentary return F.-4, 1871. No section-numbers were originally given for this block, and it is therefore impossible to identify the land with any degree of accuracy. Probably it was included in the McCleverty awards.			
	3,872	1	28

It will be seen from the various awards that the actual area of many of the sections is considerably in excess of the nominal area of 100 acres each. Lieut.-Colonel McCleverty dealt with twenty-seven sections, which contained a nominal area of 2,700 acres, but the actual area of which was 3,072 acres 1 rood 28 perches. The excess area on proper survey was therefore 372 acres 1 rood 28 perches. In addition to the McCleverty awards, eight other sections were taken out of the "tenths," and these have been shown at their nominal area of 100 acres each, no other information being available.

The reconciliation of the Wellington country reserves is therefore as follows:—

	A.	R.	P.
Originally reserved by the New Zealand Company—forty-two sections of 100 acres each	4,200	0	0
Increase in area (on subsequent survey) of twenty-seven of these sections awarded by Lieut.-Colonel McCleverty	372	1	28
Total area actually reserved	4,572	1	28
Less the following awards:—			
Lieut.-Colonel McCleverty's awards—twenty-seven sections, containing			
Miscellaneous awards and sales—Eight sections, containing nominally			
	3,072	1	28
	800	0	0
	3,872	1	28
Balance remaining—Seven sections of 100 acres each made up of Sections 19 and 21, Ohiro; Sections 22 and 24, Makara; Sections 12 and 13, Ohariu; and Section 132, Mangaroa or Upper Hutt	700	0	0

The Schedule to the 1873 Act enumerates the remaining country sections as follows:—

	A.	R.	P.
Nos. 19 and 21, Ohiro	175	0	0
Nos. 22 and 24, Makara	200	0	0
Nos. 12 and 13, Ohariu	201	2	0
No. 132, Mangaroa	100	0	0
Total, seven sections, containing	676	2	0
Together with Nos. 2, 3, and 4, Pakuratahi	300	0	0
Grand total	976	2	0

The Pakuratahi reserves will be dealt with separately, as they were "introduced" lands; and as regards the reduction of 25 acres in the area of the two Ohiro sections and the increase of $1\frac{1}{2}$ acres in the area of the Ohariu sections there is no explanation on record, and the assumption is that the differences are variations on surveys.

PAKURATAHI SECTIONS 2, 3, AND 4.

These lands are situated near Kaitoke, and, according to the report by Major Heaphy when Commissioner of Native Reserves, the three sections were selected as Native "tenths" in 1843, but remained unoccupied for many years. Later on, some members of the Ngatitama Tribe squatted upon the land, and their principal man, Teira Te Whetu, was promised 50 acres by Sir George Grey,

and later another Native was allowed to remain on 25 acres. By 1878 portions of the land were leased and the rents appropriated to certain Natives. There is nothing on record to show that these sections were originally the New Zealand Company's "tenths." They are not included in Mr. Halswell's selections, which were made in 1842, and it is more likely that they were set aside by some informal arrangement or appropriated by the Ngatitawa Tribe. In any case, they were considered to be Native reserves in 1883, and they were included in Schedule D of the Native Reserves Act, 1873.

Mr. A. Mackay, when Commissioner of Native Reserves, drew attention to the mistake which had occurred in the numbering of the sections. According to him, Section 2 should be Section 7, and he advised the Public Trustee that the rents for Sections 4 and 7 should be distributed to the beneficial owners of the North Island "tenths," while Section 3 was owned by a separate group of Natives. The confusion which always existed was definitely cleared up in 1925, when the Native Trustee applied to the Native Land Court, under section 16 of the Native Reserves Act, 1882, to ascertain and determine the persons beneficially entitled to the land. After inquiry the Court ordered that the beneficial owners of the North Island "tenths" were also the beneficial owners of Pakuratahi Sections 4 and 7, and that Section 3, Pakuratahi, was owned beneficially by three other Natives. Sections 4 and 7, therefore, became part of the remaining country reserve included in the New Zealand Company's selection, while Section 3 is a separate reserve.

NELSON TOWN SECTIONS.

								A.	R.	P.	
Originally reserved in 1842	..	..	..	..	..	..	..	100	0	0	
Withdrawn in 1848	..	..	..	..	..	..	..	47	0	0	
Balance remaining in 1848	..	..	..	..	..	..	..	53	0	0	
Less further reductions:—								A.	R.	P.	
May and July, 1864: Part Section 344 sold	..	..	..	..	..	..	..	0	2	34	
July, 1870: Sections 266 and 269 exchanged with Messrs.											
Curtis Bros. for Section 946 (one section lost on exchange)								1	0	0	
Section 521 and 522 reduced in area by river erosion	..	..	..	..	..	..	..	0	2	10	
									2	1	4
Balance remaining as per schedule to 1873 Act	..	..	..	..	..	..	..	50	2	36	

NOTE.—(1) The loss of one section on exchange was due to two sections (No. 266 and 269) having been exchanged on 7th July, 1870, with Messrs. Curtis Bros. for one section—viz., No. 946. This exchange was evidently effected upon a valuation basis.

(2) Sections 521 and 522, which were originally 1 acre each, are bracketed in the Schedule to the 1873 Act as together containing 1 acre 1 rood 30 perches. In the first property-book contained in the records of the Native Trust Office the entry for Section 521 (see folio 87) shows that "on consideration of river-encroachment the annual rent was reduced." As the north-east boundary of both sections is the River Maitai, the reduction in area of 2 roods 10 perches between the years 1842 and 1873 was no doubt due to river erosion.

NELSON COUNTRY SECTIONS.

Originally reserved in 1842—								A.	R.	P.
Moutere District ..	..	..	..	..	..	..	..	950	0	0
Motueka District ..	..	..	..	..	..	..	..	4,050	0	0
Total								5,000	0	0
Less following reductions:—								A.	R.	P.
November, 1865 : Part Section 161 sold						1	0	0		
December, 1870 : Part Section 146 sold						13	3	20		
Granted to Bishop of New Zealand						918	0	5		
								932	3	25
Balance remaining								4,067	0	15
The schedule to the 1873 Act gives the following areas:—										
Moutere	..	..	..	..	..	..	..	950	0	0
Motueka	..	..	..	..	..	..	..	3,017	0	15
Takaka	..	..	..	..	..	..	..	150	0	0
								4,117	0	15

There is a difference, therefore, of 50 acres, which is one complete section. On referring to the Schedule of the 1873 Act it is found that Section 72 has crept in. This section was never originally a Native reserve, and there is no record in the published deeds of its having been dealt with by exchange. It is assumed, therefore, that it came under the control of the Commissioners by virtue of section 14 of the Native Reserves Act, 1856, and thus became a reserve.

SALES AND EXCHANGES AFFECTING NELSON TOWN AND COUNTRY DISTRICTS.

11th June, 1864 : Sections 139, 140, and 141, Motueka, were exchanged for Section 9, Takaka, containing 150 acres.

15th May and 15th July, 1864 : Part Section 344, Nelson, containing 2 roods 34 perches, was sold.

20th November, 1865 : Part Section 161, Motueka, containing 1 acre, was sold.

7th July, 1870 : Sections 266 and 269, Nelson, were exchanged for Section 946.

14th December, 1870 : Part Section 146, Motueka, containing 13 acres 3 roods 20 perches, was sold.

Section 203 was exchanged for Section 733 to enable the Nelson School Committee to enlarge their premises. Section 203 was afterwards formally granted to the Superintendent of Nelson by deed dated 5th December, 1871.⁽¹⁾

NOTE.—Section 9, Takaka, 150 acres, although shown in Schedule to 1873 Act, was, according to Major Heaphy (report, Appendix to Journal, House of Representatives, D.-16, 1870) to be subdivided amongst the resident Natives in accordance with the original intention for which the exchange was effected.

RETURN OF THE NEW ZEALAND COMPANY'S RESERVED "TENTHS" FROM 1873 TO 1929.

WELLINGTON CITY RESERVES.

	A.	R.	P.	A.	R.	P.
Balance as per Schedule D, Native Reserves Act, 1873	..	..	..	38	1	13
Sold to the Crown for a site for the barracks at Buckle Street : Sections 89 and 90. Deed of purchase dated 24/3/74 (see Deeds of Purchase, North Island)	2	0	0	..	..	..
Balance remaining in March, 1929	36	1	13	..	..	..
	38	1	13	38	1	13

WELLINGTON COUNTRY RESERVES.

	A.	R.	P.	A.	R.	P.
Balance as per Schedule D, Native Reserves Act, 1873	..	..	..	976	2	0
Vested in beneficial owners, &c. : Sections 22 and 24, Makara (Native Trust Records 41/61)	200	0	0	..	..	..
Sections 19 and 21, Ohiro, vested in Native Trustee but beneficially owned by a separate group of Natives (Native Trust Records 6/60)	175	0	0	..	..	..
Sections 132, Mangaroa, transferred to the Native owners in terms of section 42 of the Maori Land Claims Adjustment Act, 1907	100	0	0	..	..	..
Sections 12 and 13, Ohariu : Section 13 granted to individual beneficiaries, and Section 12 vested in Native Trustee but owned beneficially by a separate group of Natives	201	2	0	..	..	..
Section 3, Pakuratahi, vested in Native Trustee but beneficially owned by a separate group of Natives (Native Trust Records 6/57)	100	0	0	..	..	..
Balance remaining in March, 1929	200	0	0	..	..	..
	976	2	0	976	2	0

The actual area remaining in 1929 is 191 acres, which comprises Pakuratahi Sections 4 and 7. The difference in area is apparently due to loss on subsequent survey. The country sections reserved were nominally of 100 acres each, but were found to vary considerably when a more accurate survey was made.

NELSON CITY RESERVES.

	A.	R.	P.	A.	R.	P.
Balance as per Schedule D, Native Reserves Act, 1873	..	..	..	50	2	36
Sold to Provincial Government in 1874 (Appendix, House of Representatives, G.-5B, 1874)	1	0	0	..	..	..
Taken under Public Works Act, 1908, in 1924 for purpose of a school-site : Part Sections 62, 63, 64, and 65 (<i>Gazette</i> , 4/9/24, p. 2096)	1	2	29	..	..	..
Balance remaining in March, 1929	48	0	7	..	..	..
	50	2	36	50	2	36

The actual area remaining in March, 1929, is 48 acres 2 roods 6.2 perches. The Nelson reserves were resurveyed in 1925 for the purpose of bringing the lands under the provisions of the Land Transfer Act, 1915, and the area of practically every section was varied to a slight extent. The difference of 1 rood 39.2 perches is therefore made up of variations on subsequent survey.

(1) Taken from copies of deeds, Mackay's Compendium, Vol. 2, pp. 393-401.

NELSON COUNTRY RESERVES.

	A.	R.	P.	A.	R.	P.
Balance as per Schedule D, Native Reserves Act, 1873	..	..	..	4,117	0	15
Vested in beneficial owners : Section 9, Takaka (Native Land Court Records)	150	0	0	..	..	..
Taken out of the "tenths" and awarded to separate groups of beneficiaries : Section 118, Motueka, now beneficially owned by the same group of owners as Section 27, Square 9, Sandy Bay (Native Trust Records 6/74)	50	0	0	..	..	..
Motueka Sections (awarded by Judge Mackay in 1901)—	A.	R.	P.			
126	50	0	0			
127	50	0	0			
129	50	0	0			
132	50	0	0			
144, 145, 146, and 147	90	1	29			
157	48	2	30			
160 and 161	34	3	14			
161	36	2	25			
162	40	3	31			
163	33	1	7			
164	24	2	13			
165	13	3	19			
181	32	0	26			
182	46	2	32			
183	68	1	15			
184	22	3	2			
187	69	0	4			
188	49	0	37			
210	22	2	0			
211	51	2	1			
212	49	2	4			
	935	0	9	..	..	..
Balance remaining in March, 1929	2,982	0	6	..	..	..
	4,117	0	15	4,117	0	15

The actual area remaining in 1929 is 3,093 acres 2 roods 14 perches. The difference of 111 acres 2 roods 8 perches is due to variations on subsequent surveys.

SUMMARIZED RETURN OF THE NEW ZEALAND COMPANY'S NATIVE RESERVED
"TENTHS" FROM 1840 TO 1929.

WELLINGTON CITY RESERVES.

	A.	R.	P.	A.	R.	P.
Originally reserved in 1840 in accordance with London prospectus of 1839 : 110 town acres	..	..	..	110	0	0
Increases on subsequent surveys	..	..	..	0	3	16½
McCleverty awards, 1847	44	0	17	..	..	..
Hospital endowment, 1851	12	0	11½	..	..	..
College and grammar-school endowment, 1853	10	1	32	..	..	..
The McDonald or Tod grant	2	0	15½	..	..	..
Miscellaneous grants to individual Natives or tribes	3	3	7½	..	..	..
Sold to Crown in 1874	2	0	0	..	..	..
Balance remaining in 1929	36	1	13	..	..	..
	110	3	16½	110	3	16½

WELLINGTON COUNTRY RESERVES.

	A.	R.	P.	A.	R.	P.
Area proposed to be reserved in accordance with the London prospectus of 1839	..	..	..	11,000	0	0
Area actually reserved in 1842	..	..	..	4,200	0	0
Area brought under the provisions of the Native Reserves Act, 1856	..	..	..	300	0	0
Increases on subsequent surveys	..	..	..	373	3	28
Decreases on subsequent surveys	34	0	0	..	..	..
Awarded by Colonel McCleverty	2,868	1	28	..	..	..
Sold in 1866 and proceeds invested in Palmerston reserves	200	0	0	..	..	..
Miscellaneous sales	300	0	0	..	..	..
Miscellaneous grants to individual tribes or Natives	1,280	2	0	..	..	..
Balance remaining in 1929	191	0	0	..	..	..
	4,873	3	28	4,873	3	28

NELSON CITY RESERVES.

	A.	R.	P.	A.	R.	P.
Originally reserved in 1842 in accordance with London prospectus of 1841: 100 town acres	..	..	..	100	0	0
Withdrawn in 1848	47	0	0	..	..	..
Increase in area on subsequent survey in accordance with the plan to remodel the Nelson Township	..	..	..	0	1	39
Loss of area on exchange	1	0	0	..	..	..
Loss of area due to river erosion	0	2	10	..	..	..
Miscellaneous sales	1	2	34	..	..	..
Taken under Public Works Act, 1908	1	2	29	..	..	..
Balance remaining in 1929	48	2	6	..	..	..
	100	1	39	100	1	39

NELSON COUNTRY RESERVES.

	A.	R.	P.
Area proposed to be reserved in accordance with the London prospectus of 1841—100 suburban sections of 50 acres each, 5,000 acres; 100 rural sections of 150 acres each, 15,000 acres	20,000	0	0
Area awarded by Commissioner Spain in 1845	15,000	0	0
Area actually reserved in 1842	5,000	0	0
Area brought under provisions of Native Reserves Act, 1856	50	0	0
Increases on subsequent surveys	111	2	8
	A.	R.	P.
Grant to Bishop of New Zealand	918	0	5
Vested in beneficial owners	150	0	0
Awarded to individual tribes	985	0	9
Miscellaneous sales	14	3	20
Balance remaining in 1929	3,093	2	14
	5,161	2	8
	5,161	2	8

NOTE.—The rural lands—100 sections of 150 acres each—which were proposed to be set aside for the benefit of the Natives in accordance with the original plan of the Nelson Settlement were never actually reserved.

EXPLANATORY NOTE.

As far as the writer is aware, no previous attempt has ever been made to place on record a statement showing—(1) The total reserves set aside by the New Zealand Company in accordance with their original scheme of settlement for Wellington and Nelson; (2) a return of all the reserves originally set aside which have been taken out of the “tenths” by awards, endowments, grants, sales, and exchanges between the years 1840 and 1873; (3) a balance of the reserves remaining in 1873 reconciled with Schedule D of the Native Reserves Act, 1873—in other words (to use an accountancy term) a “reconciliation statement” balancing the areas of the reserves remaining in 1873 with the areas originally reserved in 1840 and 1842, less the numerous transactions which took place between 1840 and 1873.

Some idea of the magnitude of the task may be gained when it is stated that to obtain the desired information it has been necessary to make an exhaustive search of the records of the Native Trust Office, the Lands and Deeds Office, the Lands and Survey Office, and innumerable official documents and returns contained in the General Assembly and Turnbull Libraries.

Many returns of lands known as Native reserves are contained in the Appendices to the Journals of the House of Representatives covering the period under review, and as far as the South Island is concerned these are more or less complete. The available information regarding the Wellington reserves, however, is not so satisfactory, and it is not incorrect to say that no two returns actually agree. The returns dealing with the McCleverty awards alone are misleading, and Commissioners who administered the Wellington reserves prior to 1873 were apt to show any doubtful lands as grants under this heading.

Some of the many difficulties encountered in attempting to reconcile the “tenths” may be summarized as follows:—

- (1) Certain reserves marked out on the Company's plans did not agree with the reserves shown on the official plans attached to the Crown grants.
- (2) The areas of the reserves originally set aside by the Company were found on subsequent survey to vary considerably.
- (3) Grants made out of the “tenths” by Sir George Grey to individual Natives were in some cases not recorded.
- (4) Under the deeds system, Crown grants were issued on requisitions from the Crown Lands Office. In some instances awards were apparently made prior to the issue of the Crown grant, the records of which are to-day not in existence.
- (5) The McCleverty awards are vague as to descriptions, and contain large areas outside the scheme of the reserved “tenths.”
- (6) In some cases sections awarded by Colonel McCleverty were subsequently administered by Commissioners for various reasons, and were confused with actual reserves.
- (7) Many early returns deal with the same land twice, and confuse actual awards made from the “tenths” with subsequent dealings by the Natives to whom the original awards were made.

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