

At an earlier period of the Session it might have been possible to remove these misapprehensions, and to obtain the cordial concurrence of Parliament in the proposed measure.

When the exceptional circumstances of the present Session had delayed its discussion in the House of Commons until the month of August, it was found that this could not be hoped for. It has therefore been decided to withdraw the Bill, and, in dealing with this question to rely for the present on the powers which the Crown undoubtedly possesses under the Constitution Act.

How and to what extent those powers should be exerted is a matter on which it would be premature at this moment to indicate an opinion.

I shall probably take no decided step till I learn the result of the proposed meeting of the Native Chiefs, which may indefinitely lessen or enhance the difficulties of the question, and will probably throw some light upon the future relations between the races. On this head I will merely now say,—first, that Her Majesty's Government consider it their duty not merely to maintain the nominal authority of the Governor in Native Affairs, but, as far as they properly can, to furnish him with the means of effectively exercising that authority. And next, that they are not at all disposed to insist on any theory respecting the direct or indirect purchase of land from the Natives which would interfere with its ready acquisition by the settlers, provided that the sales are not conducted upon a system which should endanger the peace of the Colony or involve the Crown's Representative in heavy responsibilities without a corresponding control.

Before concluding this Despatch, I think it right to point out to you the main provisions of the Bill now withdrawn.

In the first place it authorised the Governor and Native Council to declare Districts in which Native Law was to prevail and (within those districts of course) to declare, record and amend the Native Law. This power (I am advised) Her Majesty already possesses, and the Bill merely recognises a particular mode of exercising it.

Next, it authorised the Governor and Native Council to make various rules and to exercise various functions in connection with the extinguishment of the Native Title. By the 73rd Section of the Constitution Act the Crown is already at liberty to declare the conditions on which the Native Title may be extinguished. Under the Constitution Act, therefore, the Crown might prescribe as a condition of such extinguishment what the Governor and Council acting under instructions from the Crown, would, by the Bill have been empowered to prescribe or do. The Bill would not have transferred power from the Colonial to the Home Government but would only have furnished a machinery for the exercise of a power already given. I need hardly remind you that the powers of encumbering the Native land before it reaches the hands of the Colonial Government, or of enabling the Natives to alienate their lands to individuals, would have been in no case exercisable by the Governor or Council without the consent of the General Assembly. These were the principal provisions of the Bill, and in pointing them out I have, I think, answered in the main, the charge of invading the functions of the Colonial Legislature. I must, however, admit that there are one or two points of detail in respect of which the Bill confers upon the Governor and Council a power not conferred on the Crown by the Constitution Act. Of these the most important is that which authorises the Council to make rules under which the Natives may lease land for not more than five years. The power was given because it seemed calculated to facilitate the operations of the Council in the interest of the settlers, and the limitation was added lest under cover of a lease the land should be virtually alienated without consent of the General Assembly. It would not have been inserted if it had been supposed likely to cause dissatisfaction in the Colony.

I have drawn your attention to these features of the proposed Bill, not because I wish you to take any step calculated to provoke controversy where no happy result can be attained without the cordial co-operation of the Imperial and Colonial Governments, but in order that you may be aware of the spirit in which Her Majesty's Government have acted in a matter, in which their conduct will of course be canvassed, and may be impugned in New Zealand.

I have, &c.,

C. FORTESCUE,

(In the absence of the Secretary of State).