

P A P E R S

ON THE SUBJECT OF

COLONIAL RESPONSIBILITY

IN

NATIVE AFFAIRS.

PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY BY COMMAND OF
HIS EXCELLENCY.

AUCKLAND.

1863.

P A P E R S

ON THE

SUBJECT OF COLONIAL RESPONSIBILITY IN NATIVE AFFAIRS.

No. 1.

COPY OF A DESPATCH FROM GOVERNOR SIR GEORGE GREY, K.C.B., TO HIS GRACE THE DUKE OF
NEWCASTLE, K.G.

Wellington, 26th August, 1862.

No. 89.

MY LORD DUKE,—

I have the honour to transmit for your Grace's information, the enclosed copy of Resolutions which have been passed by the House of Representatives, defining the relations which, in their opinion, should exist between the Governor and his Responsible Advisers regarding Native Affairs.

2. I have consented to act in the spirit of these Resolutions until your Grace's further instructions reach me. I have done this because I know my Ministers, the settlers, and natives so well, that I am satisfied whatever may be in theory the nature of the relations existing between myself and my Responsible Advisers, the practical result will be the same, and that Her Majesty's Service will not suffer from any such arrangements as I now transmit.

3. At the same time your Grace will find from my Despatch, No. 36* of the 30th November last, that I do not think that the enclosed Resolutions establish satisfactory relations between the Governor of this Colony and his Responsible Advisers. But I have no doubt that when the difficulties now prevailing have been brought to a close, the General Assembly will, if your Grace desires it, assume the entire responsibility of Native Affairs.

*Vide Sessional Papers,
1862—E No. 1, Sec. II,
pages 34, 35.*

I have, &c.,

G. GREY.

His Grace the Duke of Newcastle, K.G.

Enclosure in No. 1.

EXTRACT FROM THE JOURNALS OF THE HOUSE OF REPRESENTATIVES.

Vide Journals of House of Representatives, 1862, pages 80 and 81.

No. 2.

COPY OF A DESPATCH FROM GOVERNOR SIR GEORGE GREY, K.C.B., TO HIS GRACE THE DUKE OF
NEWCASTLE, K.G.

Wellington, 6th October, 1862.

No. 98.

MY LORD DUKE,—

I have the honour to transmit a Memorial which has been addressed to Her Majesty by the House of Representatives of New Zealand in Parliament assembled, and which they respectfully request your Grace will be pleased to cause to be laid before the Queen.

*Printed in the Journals
of House of Representa-
tives, 1862—p. 199 et seq.*

I have, &c.,

G. GREY.

His Grace the Duke of Newcastle, K.G.

No. 3.

COPY OF A DESPATCH FROM GOVERNOR SIR GEORGE GREY, K.C.B., TO HIS GRACE THE DUKE OF
NEWCASTLE, K.G.

No. 103.

Government House, Auckland, New Zealand,
20th October 1862.

MY LORD DUKE,—

Printed in the Journals
of the Legislative Council,
1862—p. 80 et seq.

I have the honor to transmit an Address to Her Majesty, which has been adopted by the Legislative Council of New Zealand in Parliament assembled, and which it respectfully requests your Grace will cause to be laid at the foot of the Throne.

I have, &c.,

G. GREY.

His Grace the Duke of Newcastle, K.G.

No. 4.

COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE, K.G., TO GOVERNOR SIR
GEORGE GREY, K.C.B.

[Received by the Governor at Taranaki, 8th May, 1863.]

Downing-street, 26th February, 1863.

No. 22.

SIR,—

In a Memorandum presented to you on the part of your late Ministers, and bearing date 8th October 1861, they declared the existence of the Native Secretary's department "free as it was from all control on the part of the Responsible Ministers," to be "a very serious evil;" representing that, while the general government of the Colony was conducted by Ministers responsible to the General Assembly, the executive functions of Government in relation to Native Affairs were exercised by an officer who was under no such responsibility, direct or indirect, but received his instructions from the Governor himself, who, therefore, to that extent, retained the management of Native Affairs in his own hands.

* Vide Sessional Papers,
1862, E. No. 1, Sec. II.,
pp. 34, 35.

You informed me in your Despatch No. 36* of 30th November, that you concurred with your advisers—that, under the existing circumstances, it was in your opinion quite impossible that Her Majesty's Government could be advantageously carried on under such a system, and that you had immediately arranged to consult your Responsible Ministers in relation to Native Affairs in the same manner as upon all other subjects, and in like manner to act through them in relation to all Native matters; you urged the impolicy on the part of the Home Government attempting to interpose the Governor or any other protective authority between the natives and the General Assembly, and you recommended that the arrangement thus made by you should be left in permanent operation.

I replied as follows:—"I am ready to sanction the important step you have taken in placing the management of the natives under the control of the Assembly. I do so partly in reliance on your own capacity to perceive, and your desire to do, what is best for those in whose welfare I know you are so much interested; but I do it also because I cannot disguise from myself that the endeavour to keep the management of the natives under the control of the Home Government has failed. It can only be mischievous to retain a shadow of responsibility when the beneficial exercise of power has become impossible."

No. 89, August 26, 1862.
No. 98, October 6, 1862.
No. 100, October 10, 1862.
No. 103, October 20, 1862

I have now received your Despatches noted in the margin, containing what may be considered as the comments of the colonists on the decision of the Home Government.

The Despatch of the 26th of August encloses certain Resolutions of the House of Representatives, which declare that the ministers are to accept, "at your request," what, at the suggestion of their predecessors, you had in fact already transferred to them—the executive administration of Native Affairs. They further declare, that the decision on all matters of native policy is reserved to the Governor; and on the second declaration, which is divested of all substantial meaning by the first, they ground the conclusion that the power thus accepted "shall not be held to bind the Colony to any liability past or future, in connexion with Native Affairs, beyond the amount authorised or to be authorised by the House of Representatives."

I can readily imagine that you must have been somewhat embarrassed by the communication to you of these singular resolutions, so ambiguous in every respect except in the evident intention of avoiding those powers and responsibilities which, until they were conferred by the Imperial Government, the Colonial Legislature and Ministries had repeatedly demanded.

You state, however, that you have consented to act in their spirit until my instructions should reach you, being satisfied from your knowledge of your Ministers, the settlers and the natives, that whatever may be in theory the nature of the relations existing between yourself and your Advisers, the practical result will be the same, and that Her Majesty's Service will not suffer from the arrangements now adopted.

You do not consider the relations thus established as satisfactory, but you anticipate that when the difficulties now subsisting shall be brought to a close, the General Assembly will, if the Home Government should desire it, assume the entire responsibility of Native Affairs.

I entirely approve of the course which you have adopted. In the position in which you were

placed by the Resolutions which you transmit, and in the absence of any specific instructions from Her Majesty's Government, it was your paramount duty, without reference to any theory of administration, or to anything else but the means at your command, to take care that the present and future safety of the Colony was provided for. This you appear to have done. I do not doubt that you will continue to do so, and I congratulate myself on the circumstance that the Government of New Zealand is in the hands of an officer whose personal character will secure him a due influence in the affairs of the Colony, independently of the terms in which the General Assembly may recognise his authority.

Of the remaining Despatches the most important are those which enclose Addresses to Her Majesty from the Legislative Council and House of Representatives; of these I proceed to notice those portions which appear to me most material as bearing on the present and future policy of the Home Government.

In the first place, the Council and House of Representatives decline the functions which have been relinquished to them.

The House of Representatives allege that the duty of educating, civilising, and governing the aboriginal inhabitants of the Islands does not solely belong to the European inhabitants of the Colony, and assuming this duty to belong in part to the Home Government, they add that the liability of that Government is greatly increased by the fact that, from the first settlement of the Colony, the Government of the Natives has been in the hands of Her Majesty's representatives under the orders of successive Secretaries of State. They point out that the allegiance of the Natives as a body, has never been more than nominal, that the proposed transfer of authority is to be made at a time when some of them are actually in arms for the establishment of an independent authority, and that, if the colonists are left to their resources, they may be driven on the one hand to engage in a sanguinary war of races, or on the other to abandon the shew, where they cannot exercise the reality, of control, and to leave the bulk of the Maori race to virtual or even to avowed independence.

The Legislative Council, admitting that the system of Government hitherto in force has failed, state that this is not the fault of the colonists, who have always submitted to it with reluctance. They state that the war is one of the results of that system, and earnestly repudiate my statement that it is a "settlers war," on the ground that "hostilities were commenced and carried on by Her Majesty's representative at a time when he was solely accountable to the Imperial Government, and when the Legislature of the Colony had no control over his actions in this respect." And they add that "when peace, order, and the authority of the law shall have been re-established throughout the Colony," and not till then, can it be just that the powers and responsibilities of governing the Maoris should be transferred to the ordinary Government of the Colony.

The House of Representatives after alluding to the losses to which the Taranaki settlers have been subject, describe the Home Government in a similar spirit as "the authority under which those sufferings have arisen," meaning it to be inferred (as clearly appears from the context) that the Home Government is the "author" of those sufferings, and therefore, of course, eminently responsible for the increased expenses of Native Government.

And they observe that, in respectfully declining the Government of the natives, they do so, not as shrinking from the thing in itself, but because they seem to discover in my Despatches the intention to transfer to them also certain liabilities and burdens, which they consider to belong properly to the Empire.

This, I think, is a fair summary of the documents which I have before me, so far as they relate to the two great questions at issue between the Home and Colonial Governments—who shall govern the natives, and who shall pay the expense of governing them.

With regard to other matters, the Council and House of Representatives concur in disputing my statement, that the Government of New Zealand appears to have no adequate apprehension of the obligation under which the colonists lie to exert themselves in their own defence, and to submit to those sacrifices which are demanded from persons whose lives and properties are in danger. They state what has actually been done. They complain, as I understand, that the militia and volunteers have not shared with the regular army in the distribution of honours and rewards due to meritorious service. They suggest that in order to get rid of divided responsibility, the control of the military force should be entrusted to the Governor, *i.e.*, be subject to the influence and authority of the Responsible Government; and, finally, they express their hope that it may appear to Her Majesty that "a complete examination ought to be made into the respective obligations of the mother-country and the Colony with reference to the Native race, in order to an equitable 'apportionment of those obligations,'" and that Her Majesty "will be pleased to direct a full inquiry to be made into the condition and prospects of the Colony, and a reconsideration of the announced intentions of Her Majesty's Government."

Without exactly knowing what form of examination or inquiry is contemplated by the House of Representatives, I am entirely of opinion that the time has come for Her Majesty's Government to state clearly what they hold to be the respective obligations of the mother-country and the Colony with reference to the native race, especially with regard to the expense of native wars. For it is plain that the views entertained of those obligations by the Home Government and the colonists respectively are of a very opposite character. And it is, I am sure, far better that this discordance should be distinctly recognised, at whatever risk of immediate dissatisfaction, than that it should be allowed to minister occasion for continual disputes on matters of detail, accompanied by those mischievous accusations of harshness or of disingenuity which are the common results of misapprehension.

No. 98, October 6.

Vide supra.

No. 103, October 20.

Vide supra.

If it be asked whether the expense of native government and of native wars in New Zealand is in its nature Local or Imperial, or to speak with requisite accuracy, whether that expense should be defrayed by taxes imposed on the inhabitants of New Zealand, or by taxes imposed on the inhabitants of the United Kingdom, the first and most obvious answer is, that the cost of all war and government should be borne by those for whose benefit it is carried on, that is to say, in this case, by the inhabitants of New Zealand. The members of every community are bound to pay for what immediately concerns their personal safety, and the security and extension of their property.

Nor, if the question is viewed as one of dry justice, would this answer be much affected by the circumstance that the native policy has been conducted subject to instructions from the Home Government. The duty of the governed to defray the expenses of their own government does not depend upon the nature of that government, whether free or absolute, native or foreign; but on the circumstance that the governing authority is acting honestly as trustee for their interests, and not for the interests of any third party.

But it cannot be alleged that New Zealand has at any time been governed in the interest of the inhabitants of the United Kingdom. The colonists are not compelled to give a preference to English manufacturers, or to carry their produce to an English market. They contribute no quota to the Imperial army, no money to the Imperial treasury. The British tax-payer, in short, has never derived or endeavoured to derive from New Zealand any other advantages than those which the Colony and the mother-country enjoy in common from commerce and emigration. I repeat, therefore, that as matter of strict right the circumstance that the internal administration of New Zealand was controlled by the British Government, would not relieve the colonists from the duty of providing for the expense of that government, including that of intestine or frontier wars.

I am aware, however, that the question cannot be dealt with as one of strict right—nor have I any intention of arguing it on that footing. When bodies politic are so closely related to each other as Great Britain and her Colonies, the stronger is under an obligation to assist the weaker, an obligation of generosity and wisdom as irresistible practically as one of technical justice, and unquestionably heightened in proportion to the amount of control exercised by the power which gives assistance over the affairs of the community which receives it.

This species of obligation the British Government has ever been ready to acknowledge and fulfil. Before the institution of responsible government in 1853, the military expenses of New Zealand were unhesitatingly adopted by the Imperial Government. In the five years, from 1853 to 1857 inclusive, I find that £434,360 of British money must have been spent on the same account, besides naval expenditure.

At the end of 1862 there appear to have been about 5,500 officers and soldiers in New Zealand, at an annual cost to the Imperial treasury of nearly £350,000 per annum.

I do not pause to inquire whether this large expenditure deserved or elicited any gratitude from the colonists, a question of slight practical importance; but I state as an opinion which will not be questioned beyond the limits of New Zealand that a Government which thus frankly adopted the whole cost of colonial wars, was entitled, as a necessary consequence, to a paramount control over the causes out of which these wars were always liable to arise—that is, over Native Affairs.

With all its disadvantages to Great Britain, this arrangement is a common one, and there were peculiar reasons why the Home Government was ready to submit to it in New Zealand.

For when the British Crown employed its credit to procure the sovereignty of New Zealand, for the advantage of those British subjects who had settled and might afterwards settle there, it became bound to secure to the utmost of its power that the rights thus obtained should not be used (as they have been elsewhere) to the injury of the natives. The Home Government has therefore been anxious to preserve an effectual authority in the management of native affairs, either until the amalgamation of races had proceeded so far as to break down the sharp division of colour which at present exists, or until a system of government had taken root in the Colony which, by assigning to the Maories some recognised constitutional position, would furnish some guarantee against oppressive treatment of the less educated race, and would thus at once satisfy and protect them.

Up to the passing of the Constitution Act, the Imperial Government possessed that authority. Its influence in the Legislature, and its absolute control over public officers, conferred upon it all, and possibly more than all, the power that an Imperial Government could properly exercise in a colony of British settlers for the advancement of the Maories and for the prevention of quarrels between them and the colonists. But this form of government was abolished by the Constitution Act, and the coincident establishment of Responsible Government.

The effect of that Act, and of the proceedings consequent upon it, was to transfer the government of the island to the colonists, subject to an understanding which was arrived at with the Governor and his Ministers, that he should retain the personal direction of the native policy of the Government.

But this understanding must not be misapprehended. The Governor had no power of taxing the natives, or of relieving them from taxation. He had no power to make laws for them. He had no adequate revenue at his command for administrative, educational, or police purposes, and the inadequacy of the sum reserved in the Constitution Act for these objects enabled the Colonial Government from time to time to procure his assent to various Acts calculated to bring the conduct of Native Affairs, in various important particulars, under the control of the responsible ministry. Such were, the Native Reserves Act (No. 10 of 1856), the Native District Regulations Act (No. 41 of 1858), the Native Circuit Courts Act (No. 42 of 1858), under all of which the powers conferred nominally on the Governor are to be exercised by him as a Colonial officer, "by the advice of the Executive Council," and not as an Imperial officer under instructions from the Secretary of State.

The power left to the Governor amounted to this, that administrative matters relating to purely Native Affairs (in which I include the purchase of land at the desire of the colonists) were conducted by the Native Department; that the officers of that department were under his personal control, and that in giving his orders to them he was not bound to follow the judgment of his Ministers. He was, however, bound to communicate to them all his proceedings, which were thus brought within the reach of that Parliamentary and ministerial pressure from which indeed, under the system of responsible government, it was impossible, by any merely formal arrangement such as that of 1856, to withdraw any portion of the internal affairs of the Colony. Even as thus controlled, the administration of Native Affairs by an officer not taking his orders from the responsible ministry was a matter of continual dissatisfaction and complaint.

It is plain, therefore, that all comprehensive action upon the natives depended upon the legislative action of the colonists. All that the Governor could do (as representing the Home Government) was to handle the existing machinery and especially to prevent any injudicious pressure upon the natives on the point upon which they are most susceptible,—the alienation of their lands.

The inadequacy of these powers was represented to the Home Government by Colonel Gore Browne, and an attempt was made, not so much to enlarge them, as to bring them by Act of the Imperial Government into a form in which they would be capable of more effective exercise. The measure was opposed, as inconsistent with the rights of the colonists, by those who claimed to represent colonial feeling, and in deference to that feeling was withdrawn. The matter being afterwards debated in the General Assembly, it appeared that the feeling of the colonists had been accurately represented in England. The colonists not only deprecated firmly any action of the British Parliament, but, through their Ministers and Parliament, they refused to concede more to the Imperial Government than a vote of £2,350, payable for seven years to a Native Council, from whom all practical power was carefully withheld. Even this trifling and simply pecuniary concession was only sanctioned by the House of Representatives, "on the distinct understanding that the control and ordinary departmental administration of Native Affairs shall be placed under responsible ministers, subject to the provisions of the Bill and to the proper constitutional action of the supreme head of the Executive."

You cannot fail to observe the importance of these proceedings. You perceive that since the passing of the Constitution Act, far from New Zealand being, as to Native Affairs, "a Crown Colony," (a theory strangely maintained by some of its leading politicians), the Home Government had possessed a mere relic of that power respecting Native Affairs, to which it was indisputably entitled so long as it was responsible for quelling native insurrections. Small as that relic had been, it had been the object of constant jealousy and encroachment on the part of the Colonial Government; and the attempt, under circumstances of pressing exigency to mould it into some imperfect efficacy, has been met in effect (for I dismiss as unworthy of consideration, unmeaning phrases which merely serve to disguise the truth) by a demand for its abandonment.

If instead of taking this course, the acts of the colonists had shown any such disposition, as might sometimes be inferred from their language, to make the existing condition of things somewhat less anomalous and illusory, it is possible that for their sake and for that of the Maories, the British Government might have felt itself bound to support for some time longer the extreme disadvantages of the position which it occupied. But the proceedings which I have described, relieved the Home Government from any obligation of this kind with regard to the colonists, while your own Despatch, to which I have already referred, furnished sufficient assurance of what recent experience had gone far to prove, that the existing arrangements were not really of use to the natives.

When, therefore, I learnt that your late Ministry had repeated, and that you had acceded to the constant demand of the colonists for the abolition of the Native Department, I had little hesitation in sanctioning your proceedings.

The foregoing statement supplies an answer to much that is contained in the memorials of the Legislative Council and House of Representatives.

It exhibits my reasons for holding that the duty of civilizing and controlling the aborigines of New Zealand, rests in the first place with the inhabitants of the colony, who are primarily interested in the order, prosperity, and tranquility of their own country, and who, within its limits, alone exercise the power of imposing taxes and passing laws—that the Imperial Government is not called upon as a matter of right to relieve the inhabitants from any part of their responsibilities—that for their own supposed advantage it has hitherto so relieved them, but upon implied conditions which have long been imperfectly acquiesced in, and have now been plainly repudiated by the colonists—finally, that the failure of the system hitherto pursued, and the necessity for abandoning it, arises not from the neglect of the Home Government to exercise its powers, but from the inadequacy of those powers, and the refusal of the colonial community to confer, or submit to them. I willingly admit the perfectly constitutional character of that refusal.

I now turn to other matters. The Legislative Council, as I have already said, dispute my statement that the present is a settlers' war, and the House of Representatives use language which is evidently calculated, and therefore I presume intended, to convey the impression that the British Government is the author of that war.

I need not inform the framers of these Memorials, that the purchase of land from the natives is a matter which the various Provincial Governments are directly interested in promoting, even in defiance of native opposition, but which the Home Government, so long as it pays for native wars, is interested in suspending in all cases where it cannot be effected without exciting opposition. I need hardly further inform them that the slow progress of these land sales under the auspices of the

Native Department, and therefore under the control of the Imperial Government, was an object of complaint to the settlers, and that these complaints were particularly urgent in New Plymouth, and referred especially to the land in the neighbourhood of the Waitara. The decision to complete, by force if necessary, the purchase of that land, was adopted at the advice not of the Native Department, but of the Executive Council, and the proclamation of martial law was transmitted to the officer in command, under the signature of the chief responsible minister. It was under this pressure, with this advice and through this agency, that Governor Browne took the steps which led to the war—steps which, although I thought it my duty to sanction them, were in a direction opposite to that which a purely Imperial policy would have dictated. It is in this state of facts that the two legislative bodies of New Zealand, without alleging that Colonel Browne's acts were unwise, or that they were dictated by any Imperial policy or instructions, without denying that they arose, on the contrary, from a desire to promote colonial interests in a way which the colonists themselves demanded, and by proceedings which the Responsible Ministers formally advised, do not hesitate to repudiate all colonial responsibility in the matter, and to charge the Home Government with the authorship of their sufferings.

I proceed to another point. My statement that the New Zealand Government have not yet shown an adequate apprehension of the duties of self-defence, is disputed by the legislative bodies. My own views on this subject I have already expressed. I will notice one or two passages from the papers before me which indicate theirs.

The House of Representatives think it sufficient, in times of civil war, and while depending almost absolutely for their defence on the Home Government, that the "population of the colony" should be "at all times ready, if called upon by the military commanders" (not to undergo regular training for military service, or leave their homes to assist their neighbours, but) "for active support in their own districts."

I have also observed that a member of your Ministry alleges as a severe hardship that, in contending for their own and their neighbours' security, the colonists should have been compelled to pay almost as much per head towards the expenses of the struggle, and in compensation of the sufferers, as an average taxpayer of Great Britain contributed to secure the safety of the Turkish Empire.

Finally, the Colonial Treasurer, writing with the concurrence of his colleagues, and therefore, it may be said, speaking the voice of the colony, expresses himself as follows :—

"They," the Government, "do not regard either the payment of the militia, the reinstatement of the Province of Taranaki, or roads constructed for strategical purposes, as fair charges against the colony; and they consider that any sums paid by the colony under these heads ought to be taken into consideration" (as not fairly chargeable against the colony) "in the final adjustment of account between the Imperial and Colonial Governments, whenever that adjustment shall take place."

Considering that the colonists who compose this militia treat it as unreasonable that they should be called upon to move beyond their own districts, and that their service is thus confined to cases in which their personal interests are threatened; that the war arose under the circumstances which I have already described at New Plymouth, and in the interests of its inhabitants; and that the construction of roads, which has hitherto been confined to land over which the native title has been extinguished, cannot fail to be of the highest importance in increasing the material wealth of the Colony, and the value of its land; the fact that the leading politicians of New Zealand should have concurred in declaring that these expenses are properly chargeable against the Home Government, relieves me, I think, from the necessity of offering any further proof that the New Zealand Government have not hitherto sufficiently apprehended the obligation under which they and their fellow colonists lie to exert themselves in their own defence.

I now come perhaps to a more practical matter than any of which I have yet treated. It is complained that the power and duty of governing the natives is to be transferred to them in a time of war, and the Legislative Council add that the colonists will be ready to accept that transfer when "peace, tranquility, and the authority of the Law shall have been established throughout the Colony."

Here I must first explain, that I have never indicated any such intention as the House of Representatives appear to discover in my words, when they speak of the duty of self-defence as one which it is proposed at once to "transfer wholly" to them, "without material aid."

Her Majesty's Government, in sending a large body of troops to New Zealand, have fully recognised that degree of responsibility which their nominal control over Native Affairs imposed upon them, and have been further actuated by an earnest desire to save both races of Her Majesty's subjects from an internecine war, and to carry them, by a special exercise of Imperial power, through the present crisis of their history. They are well aware of the great difficulties which you, your Government, and the colonists have still to contend with, and they are prepared to treat New Zealand, for the present, with much consideration in the matter of military protection.

But on this point I shall address you more specifically hereafter. What I wish now to say is this—that Her Majesty's Government do not recognise the obligation of supporting the burthen to which Great Britain is now subject, until "the authority of the Law is re-established." It is quite notorious, and the House of Representatives fully admit that "the allegiance of the natives has never been more than nominal." It is almost impossible that it should have been otherwise. I owe it, indeed, to the Home Government, to the successive Governors of New Zealand, and to the officers of the Native Department, to point out that under the system which has existed hitherto, the Maoris have made advances in intelligence and civilisation unparalleled (as far as I am aware) in the history of uncivilized tribes. I observe that in a recent colonial debate, an eminent colonist, not by any means friendly to that system, stated to the House of Representatives that he knew "of no race, at

any period of the world's history, which had made in so short a period so great a stride." I believe that Mr. FitzGerald's statement is correct; and, while I attribute the main merit of this happy result to the Ministers of Religion and other teachers of the native youth, I claim some credit for the success of that system of Imperial trusteeship which before the year 1856, was real and effective. But a numerous and warlike nation of savages cannot in 25 years be entirely subjected to a foreign law by those peaceful methods to which Her Majesty's Government have endeavoured to confine themselves; and those who settle in the midst of such a nation have no right to expect that the country which they have left should undertake the burden of removing those inconveniences and dangers to which they have voluntarily exposed themselves. But all this would be involved in what the Legislative Council incorrectly call "re-establishing the authority of the Law."

The Imperial Government can acknowledge no such indefinite obligation.

I quite admit, however, that it will be for the colonists themselves to consider to what extent, with such assistance as Her Majesty's forces may supply, it would, in the words of the House of Representatives, be prudent or humane "to attempt . . . to establish and maintain Her Majesty's authority in the whole of those districts in which the native race predominates." If the Imperial Government has never been able to exact more than a "nominal allegiance," it would be plainly unreasonable to insist upon more from the efforts of the colonists, when depending to a great degree upon their own resources.

Thus much on the allegations of the Council and House of Representatives. I have now to inform you that I have laid before the Queen the Addresses of the Legislative Council and House of Representatives. Her Majesty was pleased to receive them very graciously, but has not commanded me to recall the decision communicated to you in my Despatch of the 26th of May, with respect to the administration of Native Affairs.

Vide Sessional Papers,
1862. E No. 1, Sec. III.
p. 10.

But before I conclude this Despatch, I owe it to you to define, as far as I can, the difficult position in which the course of events has placed you.

The Colonists having consistently claimed from the Home Government, by the different methods in which it was possible to make such a claim, that it should cease to manage Native Affairs, and (what is still more important) having refused to render that management possible, which under responsible government was at any rate most difficult, the Home Government has resigned that function. This relinquishment does not require the assent of the colonists to make it effectual. It is completed by the Act of the Home Government, which (in conformity with requests which it is now too late to recall) no longer requires of you to take personal charge of the Native Secretary's department. If you resume or retain the personal control of that department it will not be in obedience to instructions from home, but either at the request of the responsible ministers, or under some pressing necessity occasioned by their action or inaction, and for the consequences of which, therefore, the Home Government are not responsible.

Your constitutional position with regard to your advisers will (as desired by your late Ministry) be the same in regard to native as to ordinary colonial affairs; that is to say, you will be generally bound to give effect to the policy which they recommend for your adoption, and for which, therefore, they will be responsible.

I say, generally, because there remain several contingencies in which it would be your duty to act upon your own judgment in opposition to theirs.

You would be bound to exercise the negative powers which you possess, by preventing any step which invaded Imperial rights, or was at variance with the pledges on the faith of which Her Majesty's Government acquired the Sovereignty of New Zealand, or in any other way marked by evident injustice towards Her Majesty's subjects of the native race.

In the interests of the colonists themselves you might find yourself bound, under conceivable circumstances, to appeal from your Government to the General Assembly, and from the General Assembly to the constituencies, in case the policy recommended for your acceptance appeared to you clearly disastrous.

You would be bound to judge for yourself as to the justice and propriety of employing, and the best mode of employing Her Majesty's Forces. In this matter you might of course fortify yourself, by taking the opinions of your Ministers, but the responsibility would rest with yourself and the Officer in Command.

Lastly, the fact that the safety of the colonists depends for the present on a force of the Queen's troops, maintained at the expense of Great Britain, gives this country a right to require from the colonists that their native policy, on which the continuance of peace or renewal of war depends, should be just, prudent, and liberal. It is plain that the willingness of Great Britain to continue this assistance, will be most materially affected by the disposition of the colonists to adopt such measures as in your judgment are calculated to remove immediate difficulties, and to place the future relations of the races on a sound basis.

I trust that these considerations will give you that weight in the administration of the colony which, even independently of them, would be due to your sagacity, resolution and experience. In sending you to New Zealand, Her Majesty's Government conceive that they have placed at the command of the colonists the services of the person most competent as an Adviser to guide their councils, and as an Administrator to carry into execution the result of your joint deliberations. The rest will now depend on themselves, and I trust that by availing themselves freely of your advice, they will be able to place the government of the Maoris on a footing which will render the duty of providing for their own internal defence less onerous than they at present anticipate.

I have, &c.,

NEWCASTLE.

MEMORANDUM FOR THE GOVERNOR.

The rejection by the Secretary of State of the arrangement embodied in the Resolutions of the last Session of the General Assembly on the question of responsibility in Native Affairs, having rendered necessary some new adjustment of the relations between the Governor and Ministers in that respect, and the propriety of immediately summoning the Assembly to make such adjustment having already been partly discussed in Executive Council, Ministers have now, at His Excellency's request, to tender their definitive advice on this subject.

In any ordinary circumstances of the Colony, Ministers could have but one recommendation to make in this matter. It would be that the Assembly should be summoned at once to decide as far as lies in its power, a question of such importance to the country.

At the present moment however, war with some of the most powerful tribes appears inevitable and imminent. Every effort to conciliate these tribes has failed, especially those on the Waikato. No known ground of complaint against Government, reasonable or unreasonable, has been left to them; yet their acts of aggression have been continually increasing in frequency and violence. The expulsion of the Civil Commissioner Mr. Gorst, and his scholars from Government land at Awamutu; the seizure of property; the driving away of all Europeans married to Maori women, and the kidnapping and abduction of their wives and half-caste children; the complicity of these tribes in the murders at Oakura, of which they were the prompters, and their adoption of the cause of the murderers; the abundant evidence of their attempts, to a considerable extent successful, to organize a general conspiracy to expel, or murder, the European population throughout the Northern Island; these things shew that it is no longer at the option of Government to choose between Peace and War—but that the Natives have determined to force the latter upon us. It is unquestionable that no chance is left for the establishment of any peace that is likely to be permanent, until the Natives have been taught that they cannot make aggressions on the lives and property of Europeans with impunity. The aggressions already committed by them really amount to a declaration of war—and the preparations they are making to meet it seem to prove that this is their own opinion.

At a time then, when immediate energetic and decisive measures are absolutely necessary, it appears to ministers that to summon the Assembly would be to distract the attention of the Executive Government, and paralyze the efficient action so essentially necessary in the present crisis. Moreover, it would be impossible for Ministers to give proper attention to the preparation and conduct of measures to be brought before the Assembly, and the attempt to do so would probably result in the whole business of the Executive Government being imperfectly and inefficiently performed.

The permanent settlement of the general question of responsibility for the conduct of Native Affairs might be waived until the General Assembly can meet under more favorable circumstances. For the meantime, Ministers, expressly leaving the definitive adjustment of this matter to the Assembly, are willing to take upon themselves a temporary responsibility to the following extent.

The Governor, at a late meeting of the Executive Council, stated that it was impossible to settle the Taranaki question so long as the Waikato was the centre of disaffection, and the wealthy and prosperous settlement of Auckland was constantly threatened with invasion and destruction from that quarter; that he had arranged with the Lieut.-General when he went to Taranaki, only to try if the Waikato tribes would allow the difficulties in that Province to be settled without their interference, and that if they would not, then not to run the risk of the destruction of the Auckland settlement, but immediately to return there, and after bringing the Waikato tribes to terms, then conclusively to settle the difficulties at Taranaki. His Excellency then proceeded to explain in detail to Ministers the plan he would recommend for the defence of the Southern frontier of the settled districts of the Province of Auckland, and the establishment of a basis for further military operations in the interior of the enemy's country.

The plan, briefly stated, is to make the Waikato river, from the sea on the West Coast to its Southern bend in the middle of the island, a temporary line of defence, by placing armed steamers on the river, and by establishing posts on its northern bank. Then from the bend of the river to establish a line of fortified posts, extending to the Hauraki Gulf—the intervals to be defended by cavalry—the Gulf and its shores to be looked after by another steamer. Next, to throw forward military posts from the central bend of the river up to Paetai and Ngaruawahia, taking permanent possession of these places, the latter of which will be the point where one steamer will usually be stationed. At the same time to clear out all hostile Natives at present residing between the Auckland isthmus, and the line of the River and fortified posts first above mentioned, which together cross the island. Lastly to confiscate the lands of the hostile Natives, part of which lands would be given away and settled on military tenure to provide for the future security of the districts nearer Auckland, and the remainder sold to defray the expenses of the War.

The execution of these plans would require the employment of a considerable body of Militia and Volunteers, and the consequent expenditure of large sums of money on the part of the Colony. Measures for the defence of the other settlements of the Northern Island would necessarily have to be taken at the same time. And the lands of the Natives in their neighbourhood, who should take up arms against us, would have to be similarly confiscated and dealt with.

Ministers cordially concur in these plans of His Excellency, and they are willing to take upon themselves the responsibility for their adoption, on the understanding that they will be carried out as a whole, and also that, as far as this responsibility relates to Military expenditure, Ministers will pay

from Colonial funds all that is connected with the Militia and Volunteers. They also consider that a general notice should at once be officially published, that the claims to land of any Natives who may take up arms against the Queen's Government will be forfeited.

Ministers, feeling the difficulties of the position in which they are placed, by the assumption of so great a responsibility without the sanction of the Assembly, are only induced to offer to take the course they propose, by the strong conviction they feel that these plans grapple with the real evil we have to encounter, and, if only executed with ability and energy, will go far towards its permanent removal ; and that accordingly they will meet with the thorough approval and sanction of the General Assembly.

ALFRED DOMETT.

Auckland, 24th June, 1863.

No. 6.

MINUTE BY HIS EXCELLENCY.

The Governor acknowledges the receipt of the Ministerial Memorandum of the 24th ultimo.

Ministers have left untouched the general question of the relations which should exist between the Governor and his Responsible Advisers regarding Native Affairs. He trusts that this question may be settled as soon as practicable; he forbears however to press it to a solution at a moment of such great difficulty and danger, feeling that his Advisers have aided him well in so heartily co-operating in a plan he believes to be essential to the safety and welfare of this part of the Colony, and which he will continue with the assistance of the Military and Civil Authorities to carry out vigorously.

The Governor trusts that the earliest opportunity which the good of the public service will admit of, will be taken of calling together the General Assembly for the purpose of investing him with the powers required to enable him legally to perform some acts which it is proposed to execute, as it is with the greatest unwillingness that he finds himself compelled by circumstances, even temporarily, to undertake such heavy responsibilities.

G. GREY.

July 6th, 1863.

