

No. 73.

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MEMORANDUM by MINISTERS.

His Excellency having, in a despatch to Her Majesty's Principal Secretary of State for the Colonies, dated 7th September, 1864, and on other occasions, made statements respecting the manner in which the Maoris taken by Her Majesty's forces during the present rebellion have been dealt with, which appear to Ministers calculated to convey very erroneous impressions, they desire to place upon record the actual facts of the case, and will be obliged by His Excellency forwarding this Memorandum to Her Majesty's Government by the earliest opportunity, in order that the Colonial Government may not, any longer than can be avoided, lie under the imputations to which His Excellency's despatch above referred to would probably subject them; particularly as they were not favoured with the opportunity of commenting upon it by the same mail by which His Excellency wrote. Ministers also propose to give an account of other instances in which Maoris have, for political offences, been arrested and held in custody, not by the Colonial Government, but by His Excellency as the representative of the Imperial Government, at periods when Responsible Government in native affairs had not been conferred on the Colony, when the Colonial Government had no power to interfere in the destiny of the Maori, and when His Excellency had full and uncontrolled power to do what he pleased.

1. *How and when the Prisoners were taken.*

They were all taken by or surrendered to Lieutenant General Sir Duncan Cameron, K.C.B., or other officers in command of Her Majesty's forces in the field. With less than a dozen exceptions they were taken *flagrante delicto*, fighting against the Queen's troops. In the few excepted cases, they acknowledged their complicity with the natives who were or had been fighting, and gave themselves up as rebels against the Queen. The first group of prisoners received by the Colonial Government were 178 who were captured at Rangiriri. According to General Cameron, "they surrendered unconditionally."—See Gazette, Nov. 30th, 1863. The last group received were 10 in number, and were taken at the capture of Te Ranga, by Colonel Greer, on the 21st of June, 1864. Other small groups were taken in the interval, at the various engagements of Waiari, Rangiaohia, the Gate Pah, Orakau, &c.

2. *How they came into the hands of the Colonial Government.*

They were transmitted to the Colonial Government by the Governor from time to time, as he received them from the Military Officers in command. Practically it was done thus: The Military authorities wrote or telegraphed to His Excellency that so many prisoners had been taken, and requested that instructions should be sent as to their disposal. His Excellency minuted the telegraph or letter, "For Ministers, G. Grey," and sent it to them. They returned it with a recommendation that the prisoners should be sent to Auckland, or otherwise; which His Excellency communicated to the Military authorities, and the prisoners were, on arrival, handed over to the Colonial Government, and sent on board the hulk. In the earlier cases no question arose as to who was entitled to the custody of the prisoners. The Colonial Government never asked nor wished for it, but it seems to have been taken for granted by all parties, by General Cameron, by the Governor, and by his Ministers, that that was the proper course. In the month of June last, in consequence of His Excellency having, (without the knowledge of his Responsible Advisers at the time) written to the Home Government for instructions as to the future disposal of the prisoners, the question was raised as to whether their custody and final disposal were or were not subjects falling within the proper scope of Responsible Government. His Excellency contended that having been taken by the Queen's troops, they were prisoners of war, and that he, as the Representative of the Imperial Government, under instructions from it, was the person with whom these matters rested. Ministers held that having once been handed over by the Queen's officers to the Colonial Government, they came, so far as their custody and detention were concerned, within the same category as any other offenders against the law, although their relations to the law, and the particular character of their offence might be anomalous. Ministers complained that if His Excellency's views were correct, the burden, cost, and responsibility should have been thrown upon the Colony instead of on the Imperial Government, on whose behalf His Excellency was now claiming the control of the