

Ministers, and forward to your Grace a copy of my reply. I will only at present state that my own opinion is adverse to bringing a considerable number of the prisoners to trial. If such a step can in any way be avoided I would prefer releasing them on parole.

G. G.

DESPATCH from the Right Hon. EDWARD CARDWELL, M.P., to GOVERNOR SIR GEORGE GREY, K.C.B.
SIR,—

Downing Street, June 27, 1864.

From your Despatch, No. 53, of the 6th of April last, I collect that some difference has arisen between yourself and your Ministers respecting the proper mode of dealing with the 183 Maori prisoners taken at Rangiriri, and the tone of your Despatch leads me to conjecture that if your Advisers had concurred with you in adopting a definite and generous course of action with regard to these persons the resistance to Sir Duncan Cameron by the natives at Orakau might, in your opinion, have been less desperate, some loss of life avoided, and the completeness of the success enhanced.

On this I think it necessary to observe, that while I fully recognize the general right and duty of the Colonial Government to deal with matters of Native Policy properly so called, I consider that while active operations are being carried on under the conduct of Her Majesty's officers, and in the main by Her Majesty's military and naval forces, it is for the Governor personally, as representative of the Imperial Government, to decide upon the fate of persons who are taken prisoners in the course of these military operations. And although, before adopting any such decision, I should wish you to obtain the advice, and, if possible, the concurrence of your Ministers, I do not consider that concurrence indispensable. But, subject always to the positive law of the Colony, I hold you entitled to determine, and look to you for determining, whether such prisoners or any of them shall be released on parole or otherwise, or whether they shall be kept under such control as may legally be applied to them as prisoners of war, or whether they shall be handed over to the civil authorities to be dealt with as criminals.

I shall therefore be fully prepared to support you in case you should have thought it necessary, with or without the consent of your Ministers, so to deal with these prisoners as in your opinion the public interest may have required.

As I understand that your opinion has an especial reference to the good effect which measures of generosity would have upon the military operations of Sir Duncan Cameron, I make no doubt that in forming that opinion you have been fully acquainted with the views of Sir Duncan Cameron and of the grounds on which those views have been arrived at.

I have, &c.,

Governor Sir George Grey, K.C.B., &c., &c.

EDWARD CARDWELL.

No. 70.

MEMORANDUM ON MR. CARDWELL'S Despatch, No. 76, of 27th June, 1864.

Ministers beg to acknowledge the receipt from His Excellency of a letter from the Staff-Surgeon-Major of Her Majesty's Forces in New Zealand respecting the convalescence of their Maori prisoners, and a note to the Private Secretary requesting His Excellency's orders for their disposal, which His Excellency has referred to Ministers for action.

Ministers have given directions for the removal of these prisoners to Kawau. While doing so, however, they consider it their duty to place upon record their protest against the doctrine laid down by Her Majesty's Principal Secretary of State for the Colonies on the subject of the prisoners taken during the present disturbances in this Colony, in his despatch No. 76, of June 27th, 1864.

Mr. Cardwell states in that despatch that he has collected, from His Excellency's despatch of the 6th April last, "that some difference had arisen between His Excellency and his Ministers respecting the proposed mode of dealing with the Maori prisoners, and that the tone of His Excellency's despatch *had led him to conjecture* that if His Excellency's advisers had concurred with him in adopting a definite and generous course of action the resistance of the natives at Orakau to General Cameron might have been less desperate;" and he then proceeds to say that "he shall be fully prepared to support His Excellency in case he should have thought it necessary, with or without the consent of his Ministers, so to deal with the prisoners as in His Excellency's opinion the public interest may have most required."

Ministers beg most respectfully to express their unfeigned surprise that a member of Her Majesty's Cabinet should, without even knowing for a certainty that any difference actually existed between His Excellency and his advisers—being actually without any information as to what the difference (if there were any) amounted to—"collecting" one fact by inference, and "conjecturing" another—should by anticipation pledge himself that, whatever might be the facts, whatever the merits of the case, he would be prepared to support the Governor against his Ministers.

The practical point, however, in reference to which Ministers desire to record their protest is the position taken up by Mr. Cardwell that the disposal of the prisoners is not a subject on which the Governor is bound to take the advice of his Ministers, in accordance with the principle of Responsible Government as settled by His Grace the Duke of Newcastle's despatch of 26th February, 1863. This point has been discussed between His Excellency and his Responsible Advisers in the memoranda which passed between them on the subject of the prisoners in the months of May and June last, and which have been already forwarded to Her Majesty's Secretary of State for the Colonies. It is unnecessary therefore to go again over the same ground. Ministers will, therefore, simply reassert what they conceive to be the position in which good faith demands that, under the arrangements of 1863, the Colonial Government ought to stand in the matter.

1. That the Duke of Newcastle having in his despatch referred to required the Colonial Government to take upon itself the responsibility of governing the natives, and the Colony having accepted that responsibility in reliance upon the terms of His Grace's despatch, and having also, in the belief