

No. 21.

MEMORANDUM for HIS EXCELLENCY THE GOVERNOR.

In reply to the Governor's Memorandum of the 25th day of May, Ministers respectfully point out to His Excellency a material difference between his views of confiscation, as therein expressed, and those contained in the Secretary of State's Despatch of the 26th November, 1863, from which His Excellency quotes. In the memorandum referred to His Excellency limits his expression of the propriety and necessity of confiscating large portions of territory to that of the Waikato, Ngatimaniapoto, and Ngatiruanui tribes. The Secretary of State as expressly extends his expression of opinion to "any body" of Natives which takes up arms against Her Majesty on such grounds as those which are alleged by "the Waikatos." Ministers entirely concur with the Secretary of State. There are other tribes, who, if possible, have less pretence than any of the tribes mentioned by His Excellency for taking up arms, and so far as regards the justice of confiscating their lands, Ministers do not feel a doubt that they deserve punishment fully as much as, or even more than, the tribes of Waikato.

Admitting then the justice of forfeiture of lands as a punishment for rebellion, there does not appear to Ministers any ground, as a matter of justice, for limiting it either to some of several rebellious tribes, or to a portion only of the land of any tribe. But on the other hand though forfeiture of land may have been justly incurred it does not necessarily follow that it would be proper and expedient to confiscate it. The penalty may have been incurred, but there are, no doubt, some cases in which it would be both improper and inexpedient to enforce.

The proposed Proclamation of the 30th of April as Ministers have already had occasion to observe simply declared in the preamble that the Natives to whom it was addressed had by their conduct justly forfeited their lands, and thus a promise was made that each person who accepted the terms of sub-mission offered should receive a Crown Grant for sufficient land to provide for the wants of himself, his wife, and children. His Excellency speaks of the land thus promised as a "small portion" of the lands forfeited. These are neither the words, nor is this the meaning of Ministers. It was not intended that the land to be given to each should necessarily be a portion of the land forfeited by him, nor that the quantity should be small, for up to 1000 acres each was promised in some cases to individuals.

Ministers regret that a clerical mistake on their part should have caused His Excellency so much trouble in writing a long explanation, but they cannot at the same time but feel that this might have been avoided if His Excellency had permitted the correction to be made as proposed by the Colonial Secretary—a course the more unobjectionable as the words which had been accidentally introduced were surplusage not affecting the sense of the passage as originally written by His Excellency.

With regard to the 2nd instance referred to in His Excellency's Memorandum, Ministers do not consider explanation necessary as His Excellency's observations do not, on the only point of importance, impugn the accuracy of the statement made by Ministers, that the addition, on the subject of confiscation, made by His Excellency "intensifies the original draft of the Colonial Secretary, which was not "so strongly worded." They must however most respectfully add that an inspection of the documents referred to by His Excellency does not lead them to the same conclusion as that at which His Excellency appears to have arrived, *viz.* :—that he was dissatisfied with the alteration attributed to him by Ministers. On the contrary, from an inspection of the documents themselves, and from His Excellency's statement that at least two alterations were considered by him, and from the erasure of one alteration and the substitution of another, Ministers would rather have been led to believe that a deliberate opinion had been come to after a careful consideration of the subject in all its bearings.

Ministers have not overlooked that in December last it was His Excellency's intention to request from the Secretary of State specific instructions as to whether in assenting to confiscation His Excellency "was as of course to assent to any advice that his Responsible Advisers might tender to him, or "whether he was to act in such manner in regard to it as Her Majesty's interests might appear to him "to require." That such instructions were not asked for in consequence of the receipt of Despatches on the subject from the Secretary of State and of Ministers objecting that the course His Excellency proposed to pursue tended to an infringement of their rights as Responsible Advisers of His Excellency. And Ministers did not certainly understand that His Excellency was in any way objecting to the principle of confiscation, but simply asking for instructions in the event of difference of opinion arising at a future time between His Excellency and his Advisers as to the extent to which confiscation, or in other words appropriation of land by the Governor should be carried.

FREDK. WHITAKER.

Auckland, 3rd June, 1864.

No. 22.

MEMORANDUM by the GOVERNOR

The Governor requests the attention of his Responsible Advisers, to the enclosed copy of a Memorandum made by the Superintendent of the Province of Wellington, on a letter from the Resident Magistrate of Manawatu, dated the 12th of April last, and begs that they will inform him if such language as the Superintendent alludes to, has been used by authorised persons to the Natives in the Province of Wellington.

G. GREY.

Government House,
May 9th, 1864.