

No. 11.

MEMORANDUM by the GOVERNOR.

The Governor having received the Ministerial Memorandum of this day's date, feels sorry that a misunderstanding should have taken place as to what passed at the Executive Council on the 28th of May, which was attended by the Governor, Mr. Whitaker, and Mr. Russell.

His Advisers will, however, excuse him for saying that he cannot admit that he is responsible for this misunderstanding.

The Prime Minister on that day presented to him for approval the same regulations as on a previous occasion. After the Council was over, these regulations were taken away by the Clerk of the Council with the other papers that day laid before the Council, and the Governor never saw them until just now, when he asked the Clerk of the Council for them.

The Clerk of the Council made on the 28th of May the Minute in the Book of Proceedings of the Council, a copy of which is enclosed, which the Governor never saw or had any knowledge of, until the Executive Council met on the 16th instant, and through which, at the request of the Council, he then drew his pen, and which he never read until this moment, as it was not read to the Council.

Immediately his Responsible Advisers left him on the 28th of May, the Governor, feeling that a serious difference of opinion had taken place between himself and them, made a note of what had passed, of which he encloses a copy. All this he is sure will satisfy his Advisers that he is not responsible for the misunderstanding which has taken place, as to whether, or not, certain regulations were laid before him for his approval on the 28th of May. He regrets it should have taken place, and is only anxious to justify himself in the matter.

G. GREY.

Government House, Auckland, 24th June, 1864.

Enclosure 1 to No. 11.

EXTRACT from the Minute Book of the Executive Council.

MAY 28TH, 1864.

The Council met. Present:—The Governor; the Honorable Frederick Whitaker, Prime Minister and Attorney-General; the Honorable Thomas Russell, Minister of Colonial Defence.

The Prime Minister submitted for approval three Orders in Council defining and declaring three Districts under the "New Zealand Settlements Act, 1863," two of them being at Tauranga, and one in the Waikato country.

He also submitted for approval Regulations establishing the Districts, but at present to be applied only to the smallest District at Tauranga.

On which a long discussion ensued. The Regulations were not approved of, and the Orders in Council were ordered not to be issued.

Which Regulations I have had in my possession, with the Orders in Council, since that day.

FORSTER GORING, Clerk of the Executive Council.

Enclosure 2 to No. 11.

A difference of opinion having taken place between myself and my Responsible Advisers, I at once wrote what it was.

A few days since they advised me to sign a Proclamation, declaring all the land of all the Natives who had been in arms to be forfeited, but that lands ranging in extent from five acres to 1000 acres each would be returned to them, if they came in and gave up their arms before a day named (1st July.)

This morning they advised me to sign certain Orders in Council proclaiming Districts under the "New Zealand Settlements Act." Two of these Districts, one at the head of the Waipa and high up the Waikato, and the other at Tauranga. I signed these orders.

They then laid before me the Regulations to be established in these Districts—upon which Regulations the whole question depended.

These purported to be Regulations for the location of Natives, who have been in arms against the Queen's Troops, on land to be allotted to them by the Government.

Regulation No. 4 was, "Every man will have allotted to him a certain quantity of land, which will vary in size, according to circumstances, from five to 1000 acres."

I observed that these were vague—that nothing was said about the forfeiture of land; that I naturally read the Regulations by the Proclamation they had recently advised me to sign, and understood that it was intended that the Natives within the Districts proclaimed, who had been involved in the rebellion, forfeited all their land, and that the quantity to be allotted to them, varying in extent from 5 to 1000 acres, was all that was to be restored to them; and that, before I signed the Regulations, I begged they would tell me if this was their meaning, that I might make up my mind what to do: that I considered it essential for the termination of the rebellion, that the Natives should have a distinct offer made to them in plain terms, regarding which there could be no misunderstanding.

Mr. Whitaker repeatedly replied that they refused to make any statement upon the subject; that they advised me to approve the Regulations they then laid before me, which had only relation to a small district; that they would, from time to time, afterwards, tender me advice regarding other districts; that when the time came they would tell me what that advice would be, but they declined now to say whether they would hereafter give, or not, more land to the Natives who might take it under these regulations, and that they would not say whether or not they intended to consider the