

1882.
NEW ZEALAND.

WEST COAST NATIVE AFFAIRS

(PAPERS RESPECTING).

[In continuation of G.-7, 1881.]

Presented to both Houses of the General Assembly, by Command of His Excellency.

I.—THE GOVERNOR'S REPORT TO THE COLONIAL OFFICE.

No. 1.

His Excellency the GOVERNOR to the SECRETARY of STATE for the COLONIES.

(No. 11.)

Government House, Wellington,

New Zealand, 26th February, 1881.

MY LORD,—

I fear that your Lordship will consider me to have been extremely dilatory in complying with the instructions contained in your Lordship's Despatch No. 36, of the 22nd October last, directing me to prepare a full report upon the "Native disturbances of 1879 and 1880, and the measures taken by the Government of New Zealand in consequence of them."

Parliamentary
Paper.

G.-7, 1881, No. 1.

2. My excuse for delay must be found in the extreme difficulty which I have experienced in obtaining information which it appeared to me essential that I should possess before undertaking such a task.

3. The Minister for Native Affairs has afforded me material assistance, and has shown no reluctance to place in my hands official documents in his possession. On the contrary, all papers in his office have been freely placed at my disposal. But these papers are themselves too imperfect to permit me either to compile from them so clear a narrative of facts as I should wish to present, or to draw from them conclusions so definite as those I should desire to form. Members of the Colonial Government themselves, though aided by their local knowledge, and familiarity with the public events of the last ten or twenty years, not infrequently experience difficulty in ascertaining with precision the history of past transactions, even in the departments over which they themselves preside; and I need hardly say that what is difficult to them becomes almost impossible to those who, like myself, possess no similar advantages.

4. The communications which pass between the central Government, and its officers in the different provinces, appear in a great measure to be made by telegraph, whilst not a little important business is conducted orally, and no official record remains of the information received, agreements made, or orders given in that manner. Written instructions seem to have been but rarely sent to those engaged in the transactions which I am directed to narrate, and as few written reports to have been received from them. Telegrams to and from the Ministers of the day have been sometimes regarded as private communications, and sometimes as public documents; whilst, when treated as official, they have not always been filed as records at the time of being received. It cannot therefore be a matter for surprise that in these circumstances they should occasionally be altogether lost.

5. I have turned over many hundred telegrams despatched and received during 1879 and 1880, and have carefully studied the parliamentary debates of the period, as well as the elaborate and most valuable report of the Royal Commission appointed in 1880 to investigate the causes of the discontent existing among the Natives of the west coast of the Northern Island.

I have also perused with attention whatever papers, whether printed or manuscript, I could obtain, which appeared likely to throw any light on the subject: but, whilst I trust I may be able to avoid making any positive assertion as to a matter of fact which is inaccurate, I am well aware that my narrative will on many points be meagre and incomplete, and consequently unsatisfactory.

6. Your Lordship does not require to be told that, in 1860, an unfortunate difference with regard to the proprietorship of a piece of land at Waitara, and the determination of the Government of the day to impose by force the view which it had adopted, led to hostilities with a large portion of the Maori race, which lasted with little intermission till 1865. In the month of September in that year, after the restoration of peace in the Province of Taranaki, the extensive district indicated in the accompanying map was, by Proclamation, declared to be confiscated to the Crown, under the provisions of "The New Zealand Settlements Act, 1863;" but from the operation of this confiscation the lands of loyal Natives were expressly excluded by the Proclamation itself, which also contained a promise that lands would be restored or granted to those in rebellion who submitted themselves within a reasonable time to the Queen's authority. This Proclamation is, however, in some respects, not altogether easy of interpretation. It declares that, under it, "No land of any loyal inhabitant within the said districts, whether held by Native custom or under Crown grant, will be taken, except so much as may be absolutely necessary for the security of the country, compensation being given for all land so taken;" and, further, that "all rebel inhabitants of the said districts who come in within a reasonable time, and make submission to the Queen, will receive a sufficient quantity of land under grant from the Crown."

7. Now, although this language would be intelligible enough, did it relate to land owned by individuals, it is less easy to understand in the case of Native ownership, where the interest of each man in the tribal land is, generally speaking, only that of a share in a joint proprietorship. Whatever else it meant, however, it is clear that, to borrow words used by Sir F. Dillon Bell in the Legislative Council, "It is untrue to say that the whole of the land between the Waitotara and the White Cliffs has been confiscated. It never has been confiscated." [The Proclamation] "confiscated the land of those in rebellion, but it not only did not confiscate the land of those that remained loyal, it conserved their rights, and made the express promise to them that their land should not be taken." Moreover, under what the Royal Commissioners of 1880 justly call the "very liberal arrangements of the Government" of 1869, a large number of those who had taken part in the rebellion returned to the land in expectation of the grants promised to them.

8. Three years later, fresh hostilities took place in this district, which were, however, altogether brought to a close in the following year.

9. After the suppression of this outbreak, the southern part of the confiscated district, that lying between the Waitotara and Waingongoro Rivers, was speedily reoccupied by the settlers whom the war had temporarily expelled, and by the friendly Natives who had previously inhabited it, to whom definite reserves were duly assigned, whilst all who had taken part in the insurrection were prevented from again returning to the locality.

10. But the next great division of the confiscated territory,—that, namely, between the Waingongoro and Stoney River,—was very differently dealt with. In that district there were practically, with few exceptions, no white settlers. There were, however, Natives who had remained loyal, and who were therefore entitled to retain their lands; and, while, on the one hand, the land comprised between these boundaries was declared to be, "although nominally confiscated," unavailable for settlement (excepting one township) "until arrangements should be made with the Natives for land sufficient for their own requirements," on the other, large numbers of Natives formerly belonging to the district, but who had taken part in

the rising, rapidly returned to it, and those rigidly excluded from the district south of the Waingongoro sought a refuge among them.

11. This reoccupation of the country took place with the tacit, or more than tacit, permission of successive Governments; and it was generally understood, and indeed officially recorded by Sir D. McLean, that the confiscation of lands between the Waingongoro and Stoney River had been abandoned by the Government, even if no actual announcement that this was so were made to the Natives. That it was determined to restore it to the Native owners we are expressly told by Sir G. Grey, but whether that intention was directly or indirectly made known to those whom it concerned must remain uncertain.

Second Report, pp. xvii., xx., xxi.
Sir D. McLean's minute, 20th December, 1871.
Telegram, Grey to Sheehan, June 13, 1879.

12. Between 1872 and 1875, 185,000 acres of land between the Waingongoro and Waitotara were purchased from the Natives,—an apparent recognition of their title,—whilst every year which passed without a grant of the special reserves promised by the Proclamation of 1865 naturally deepened the impression that the Government had waived all claim to any part of the district. Still, the confiscation was never formally removed, and the Natives were informed by Major Brown in 1876 that “the Government possessed a right to do what they pleased within the confiscated boundaries,” an announcement which the terms of the Proclamation of 1865 would hardly appear to justify.

Brown, Report, 9th January, 1877.

13. In 1877, and before any arrangement had been effected as to the relative interests of the Government and the Natives in the land, it was determined to survey and sell a portion of this district. The Royal Commissioners are clearly of opinion that no difficulties would have arisen in the attainment of these objects had the Natives been previously consulted, and ample reserves assigned to those entitled to anticipate them. This precaution however was not taken, and it is clear that great uneasiness existed in the minds of the Natives as to the intentions and claims of the Government, as to which it appears, from the report of the Royal Commissioners, that they were left in complete uncertainty. They knew that no steps had been taken to carry out the promises of 1865, and that the Government had hitherto acquiesced in their undisturbed occupation of the whole district in question. But they were also aware that no formal abandonment of the confiscation had taken place, and that there were those who maintained that every acre of the land, including even that inhabited by Natives who had been uniformly loyal, was in truth the property of the Crown, and might be resumed by it at pleasure. The act of the surveyors employed, in taking a road-line for apparently insufficient reasons through a large fenced enclosure belonging to the chief Titokowaru in March, 1879, without his leave and in spite of his objection, appears to have augmented the alarm of the Natives, and to have caused very great uneasiness as to the intentions of the Government, and especially to the chief Te Whiti, whose action and authority have so largely affected the events with reference to which I shall now have to write. It therefore becomes necessary to give some account of the character and position of this remarkable man.

Second Report, pp. xxvi., xxvii., xxviii.

14. Te Whiti, though himself a chief, is not one of the highest rank, and owes his power mainly to his individual qualities. He was one of those who had declined to take part against the Government in 1865, though many, if not most, of his tribe then did so. In 1868 he successfully used his already large influence to keep back those who were under its authority from joining the outbreak under Titokowaru, during the whole continuance of which he and his people remained quiet at Parihaka. The next ten years witnessed the rapid growth and development of his influence. Educated by a Lutheran missionary, and deeply versed in the Scriptures, he has, nevertheless, whilst professing not to have abandoned the Christian faith, preached a vague and mystical religion, of which he is himself the prophet. Eloquent and subtle, and animated by an unquestionably earnest patriotism, he has for many years exercised a powerful, and, for the most part, beneficial, sway over the hearts and lives, not only of his own tribe, but of a large section of the Maori population. Where his influence extends, drunkenness is unknown, industry is exacted, and peace sedulously inculcated.

15. The Natives, say the Royal Commissioners, “had every reason to believe that the land would be sold without any reserves being made for them;” and it is clear that Te Whiti shared this belief, and would have been far from unwilling to

Second Report, p. xxx.

accept adequate reserves, to which, at least, as one who had never borne arms against the Crown, he was indisputably entitled. He inquired on the 3rd April, 1879, of Mr. Mackay, the Government Agent, whether that gentleman was authorized by the Government to offer him a part of the land, and agree for them to take the other part. "It seems to me," he added, "from the way that the surveys are being conducted, that you wish to take the whole of the blanket and leave me naked."

Telegram,
Mackay and Blake
to Sheehan, 4th
April, 1879.

Second Report,
p. xxx.

16. To this overture no reply was returned, and Te Whiti appears to have come to the conclusion that the attention of the Government would only seriously be attracted by a demonstration which could not be ignored or trifled with.

Telegram, Grey
to Sheehan, June
10, 1879.

17. On the 25th May, 1879, a small number of unarmed Maoris commenced ploughing a piece of land belonging to a Mr. Courtney. "This land," we are told by Sir George Grey, then Premier, "is part of No. 5 Oakuru Block, given by the Crown to military settlers after the war. It belonged, however, to friendly Natives as well as to rebels. The former, by a signed agreement in 1866, undertook to accept as compensation 1,250 acres of land within the block and 3,600 elsewhere, no portion of which has yet been given to them; . . . the land being ploughed had been acquired from Natives whose land could not have been lawfully confiscated, under a promise of compensation which has remained for thirteen years unfulfilled."

Telegram, Whit-
more to Noake,
June 10, 1879.

Other fields, belonging to other settlers, were also ploughed: of these another member of the Government, Colonel Whitmore, C.M.G., asserted that "the land ploughed was in each case land bought, not confiscated, and had, moreover, for fifteen years remained without being paid for;" but, although this may have been true as regarded the cases he had more especially in view, he certainly must have been incorrectly informed as to its general application.

Various tele-
grams.

18. Similar proceedings to those at Mr. Courtney's took place at a Mr. Livingstone's, and on one or two other estates, the Maoris not contenting themselves with turning one or two furrows, but returning obstinately, though quietly, day after day, until the whole field had been ploughed up.

19. These proceedings were certainly conducted with Te Whiti's knowledge and approval, and probably by his direct order, though this has never been proved, and has by some been doubted.

Brown to
Sheehan, 2nd
October, 1879.

20. The Government of Sir George Grey found itself placed in a situation of great difficulty by these proceedings. The settlers were naturally much excited and exasperated, and had made up their minds, though I believe mistakenly, that these acts of deliberate trespass were intended by the Maoris to provoke a fresh Native war. Mr. Courtney, the day after the ploughing began, telegraphed to Sir George Grey, that, "if the Government did not remove the Natives at once" he would "shoot their horses and the Natives also." Others expressed themselves in a similar sense; and one gentleman went so far as to discuss, in a telegram to the Premier, a plan for the division, among those engaged in the war about to begin, of the lands to be confiscated under it. The County of Patea passed resolutions demanding of the Government that on the outbreak of hostilities all *friendly* Maoris might be immediately deprived of their reserves, and sent out of the county, and that it might be declared "free of friendly Maoris," which, I suppose, means a request that the presence of any Maori whatever within it may be forbidden in time to come.

Telegram, County
to Grey, June 23.

21. On the other hand, the Maoris, whatever the motives which originally prompted them, had clearly gone far beyond any action required to set up a formal claim on their part to the land, and it was manifestly necessary to put a stop to proceedings which so seriously imperilled the peace of the district. In these circumstances the Government of Sir George Grey acted, I think, not injudiciously. It cannot be a matter of surprise or of blame that they should have hesitated to comply with the demand urgently made for the general arming of the whole white population of the district and their enrolment as a military force, steps which must almost inevitably have led to collision between the races; or that the threats made of shooting those engaged in trespass should be quietly rebuked: but after three or four weeks' delay, during which efforts were made to ascertain the object of the demonstration, and hopes no doubt entertained that it would be voluntarily

discontinued, orders were at length given on the 22nd June for the arrest of those engaged in the ploughing of granted lands, a step absolutely requisite to prevent an actual breach of the peace between the settlers and Natives.

22. On the same day, and before the receipt of these orders, an armed party of settlers had forcibly removed the Maoris engaged in ploughing up the lawn of a Mr. Livingstone. The Natives did not actively resist their removal, but returned again when released. They were again removed and again returned, and the first arrests were made on the 30th June, when seventeen of the ploughmen were taken into custody by the Armed Constabulary. The arrest of those engaged in ploughing on a charge of wilful damage to property was, it seems to me, amply justified by the persistence with which the trespass was repeated, and the extreme danger to the public peace which would have attended a repetition of forcible ejectments by the owners of the land.*

The mere arrest of the trespassers, however, by no means satisfied the more ardent of the settlers. A fortnight later, when arrests were made wherever ploughing was attempted, threats of shooting the ploughmen were still made. Mr. Livingstone telegraphed to the Government that it "was not his determination alone to shoot, but that of the settlers to a man almost," and that he "approved of the sentiment."

Telegram, Parris to Sheehan, June 30, 1879.

Telegram, Livingstone to Whitmore, July 13.

23. No resistance was offered to the arrests made by the Constabulary, but the ploughing was not discontinued in consequence of them. The first arrests, as I have said, took place on the 30th June, and for nearly a month longer, parties of Maoris, generally twelve or fifteen in number, and never exceeding thirty-four, from time to time, at irregular intervals, commenced ploughing in different localities, always submitting quietly to the arrest which inevitably followed. These singular proceedings took place on ten properties owned by private parties, and on a paddock occupied by the Armed Constabulary. Altogether, 180 Maoris had been arrested, when at the end of July the ploughing wholly ceased. Of those arrested, forty were tried for malicious injury to property, condemned to a term of imprisonment of two months, and required to find sureties to keep the peace for ten months more, which they could not do, and consequently had their imprisonment prolonged for that period. The remainder were committed for trial at Wellington; but before the date fixed for the trials, an Act ("The Maori Prisoners Act, 1879") was passed by the General Assembly, authorizing the Governor to determine where and when they should be held. This Act, which was passed at the short session held immediately before the dissolution of the Assembly, in August, 1879, was to remain in force only until thirty days after the reassembling of Parliament.

24. I have not been able clearly to ascertain why, having obtained a conviction, and a sentence of a year's imprisonment, against a considerable number of these men, the Government shrank from bringing the remainder to trial; nor, (Sir G. Grey's Government having left office on the 8th October,) is it now possible to say with confidence whether the allegation that all that was contemplated by the original Act was the postponement of the trials for a short period, and that they were then intended to take place before the Supreme Court in the ordinary manner on the expiration of the Act, is well founded. Another Bill, the "Peace Preservation Bill," making such proceedings as those of the ploughmen, punishable by a year's imprisonment, and giving large powers of arrest and detention to the Government, passed the House of Representatives without a division, but was strongly opposed in the Legislative Council by Sir F. D. Bell, and was thrown out by a majority of ten.

Hansard, Vol. 31, pp. 544, 548.

25. On the assembly of the new Parliament in October, a change of Government took place. The Maori Prisoners Act was allowed to expire, but the prisoners were not tried, and in December, an Act, which was in fact two separate Acts somewhat clumsily put together, ("The Confiscated Lands Inquiry and "Maori Prisoners' Trials Act, 1879,") passed the Legislature, by the first five clauses of which a Commission of inquiry into the alleged grievances of the Natives

* How serious the risk may be judged from a telegram to Sir G. Grey from a meeting of Justices of the Peace and others, to the effect that at the end of ten days, "of which two are already passed," the Natives, if they "persisted in molesting property," would be "shot down." 26 June, 1879.

on the West Coast and the causes of the recent demonstration was constituted, whilst the last four virtually re-enacted the provisions of the expired Act, which it revived. Similar professions to those made in July, that the trials were only postponed, and that but for a short time, were made on this occasion. The Bill, however, was not received with the same acquiescence as its predecessor, nor did it pass without opposition. It was urged by Mr. Stewart, one of the members for Dunedin, that, if these men had committed an offence, they should be brought to trial for it, and that, if they had not, they should be released. Others alleged that they could see no reason for the measure which would not equally apply to the permanent detention of the prisoners; others, again, urged that they had really been guilty of no crime—"that where a man acted *bond fide* in the exercise of what he believed to be a right, even though that right had no existence in fact, yet, if that right was one which might have existed in law, and he *bond fide* believed he was acting in pursuance of that right, he was protected, and was not amenable to the criminal law of the country." Sir G. Grey pointed out forcibly the objections to combining in one Bill two totally distinct measures; and all the Native members protested against the delay of the trials. On the other hand, it was urged that, though the offence with which the prisoners were charged, and of which alone they were formally guilty, was slight, the real cause of their arrest was a dangerous opposition to Government; that, if they had been detained a long time in gaol awaiting trial, so sometimes were Europeans; that if they were released the chances of war between the two races at an early period would be increased, and that it would, as a matter of fact, be most dangerous so to release them. An amendment was agreed to, limiting the date to which the Governor could postpone the trials to the time during which the Act was to continue in operation, that is to say, until the next meeting of Parliament and for sixty days thereafter; and on a division the Bill was passed in the House of Representatives by fifty-eight votes to thirteen.

26. In the Legislative Council the measure passed without opposition, but a somewhat remarkable speech was made by Sir F. D. Bell, in which he pointed out in very forcible terms the injustice done to the Maoris by delays on the part of successive Governments, and by the breach of promises made to them: but, whilst protesting against the indefinite detention of the prisoners, he recognized the danger of releasing them, and, (with the amendment already agreed to in the House of Representatives,) voted for the Bill. Both the Native Minister, in the House of Representatives, and the Attorney-General, in the Legislative Council, without absolutely denying, appeared to discredit, the existence of grievances, and held out strong hopes that the trials would take place before the next session of the Legislature.

27. When, however, Parliament reassembled in June, 1880, the prisoners had not been tried. By a Proclamation of the Governor, the trials had first been fixed for the 5th April, and subsequently postponed to the 5th July, and were on the 29th June further postponed till the 26th July. On the 15th July the Minister for Native Affairs proposed a fresh Bill to authorize the further detention of the prisoners, avowing, as he did so, that he now "intended to drop the provisions with regard to trial altogether, which he considered to be a mere sham."

28. This Act ("The Maori Prisoners Act, 1880") recites the substance of the previous statutes, and enacts that all Natives committed and waiting for trial to whom the Acts referred, as also all other Natives detained in custody for default of entering into sureties to keep the peace, should be deemed to be in lawful custody, and may be lawfully detained. It further provides that the Governor may direct the discharge from custody of such prisoners on such conditions as he may think fit; and that, if such conditions should not be observed by any Native so liberated, he may be rearrested by a warrant from the Minister for Native Affairs, and returned to his former custody.

29. The duration of the Act is limited to the 1st October, 1880, but power is given to the Governor to extend its operation for any period not exceeding three months at one time, until the close of the next following session of Parliament.

30. More opposition was offered to this measure than to that of 1879. The Minister for Native Affairs gave two reasons for its adoption. "The reasons," said

he, "generally speaking, why these men are kept in custody at the present time *Hansard, Vol. 36,*
 "are two in number. It is clear that if they were released from custody and *p. 283.*
 "allowed to go to their homes their conduct would be turbulent—judging from
 "experience of facts—and would be likely to tend to a breach of the peace. That
 "is one reason. The other is that the safe custody of these men is a guarantee
 "against depredations and crimes being committed on that coast." He further *Hansard, Vol. 36,*
 urged that if brought to trial they would, if convicted, receive very slight punish- *p. 285.*
 ments, and that it was essential that power should be given to the Government to
 detain them so long as it was deemed necessary for the interest and safety of the
 colony; and that, though the technical offence committed might be a slight one,
 those arrested had really been guilty of something little short of treason.

31. On the other hand, it was contended that there was a great difference
 between postponing a trial, and altogether dispensing with one; that the right to
 such an inquiry should not be summarily set aside; that without such inquiry it
 was impossible to say who were innocent and who were guilty; that, in fact, a
 most friendly chief, (Wi Kingi Matakatea,) and many friendly Natives, had been *Hansard, Vol. 36,*
 so arrested; and that others as innocent might be indefinitely and ignorantly *pp. 282, 356.*
 detained under the provisions of the law. It was also urged that the inquiries of
 the Royal Commission had shown that the Maoris had many and substantial
 grievances to complain of, which, in all probability, would never have secured
 notice had it not been for the act committed by them; and that consequently great
 clemency should be shown them.

32. On a division, forty-eight votes were given in favour of the Bill, and
 thirty-four against it, counting pairs on both sides. In the Legislative Council it
 passed without a division, except in Committee. It was justified by the Attorney- *Hansard, Vol. 36,*
 General, and attacked by Messrs. Waterhouse, Taiaroa, and others, in speeches *pp. 406, 416.*
 which repay perusal.

33. This Act was passed on the 25th July. It referred, of course, only to
 prisoners already in custody; but a few days later, (5th August,) another short Act
 ("Maori Prisoners Detention Act, 1880") was adopted providing that all Natives
 who had been since the 19th July, or who might after the passing of the Act
 hereafter be, arrested, "by authority of the Government," in the district included
 within the Proclamation of Confiscation of 1865, should be deemed to be detained
 under the provisions of "The Maori Prisoners Act, 1880." This Act was passed
 through all its stages in the House of Representatives in one day, but not without
 opposition. The Native Minister in introducing it requested that it should be
 passed without discussion. He explained that the reason "why the Government *Hansard, Vol. 37*
 "wished the Bill to be passed was that they had found it necessary to make *p. 16.*
 "certain arrests on the West Coast, and might have to continue making more
 "arrests in the same way. This step had become necessary in the opinion of the
 "Government because of obstruction to the formation of a road over confiscated
 "land." Sir G. Grey pointed out that the Bill "amounted to a general warrant *Hansard, Vol. 37,*
 "for the apprehension of all persons of all ages and sexes for offences which were *p. 17.*
 "not named at all—in fact, they might be arrested for no offence;" and a warm
 discussion ensued, which ended in the passage of the Bill by a majority of
 seventeen. It passed through the Legislative Council with little difficulty.

34. The 2nd clause of this Act specially provided that no person impri-
 soned under it should be detained in prison beyond the 1st October, 1880; but a
 clause was introduced into another Act—the "West Coast Settlements Act"—
 passed a few days later, which was intended to reverse this apparent concession,
 and presumably did so, though the fact is not wholly clear.

35. The "West Coast Settlements Act" was introduced mainly for the
 purpose of enabling the Government to give effect to the recommendations
 of the Royal Commission, which had in the meantime made its report,
 and had clearly shown that the grievances of the Natives were by no
 means visionary, but real and substantial. The remedies suggested by them
 required legislative sanction, and the Bill in question was prepared in
 order to confer the necessary powers on the Executive Government. The
 same process of tacking together two different subjects in one Act, by
 which the Confiscated Lands Inquiry and Maori Prisoners Act of 1879 was
 formed, was however again had recourse to, and, along with the grant of these

powers to the Government, it was provided that any person obstructing any person authorized by the Government to do anything in pursuance of the Act, destroying or removing any survey-peg, fence, or building, erecting any fence, or ploughing or disturbing any land in such a manner as to impede its lawful occupation, or destroying the surface of a road, or placing any obstacle thereon, or who assembled together armed or unarmed for such purposes, or should be present at the commission of any such offence and might *reasonably be suspected* to be present for any such object, should be liable to two years' imprisonment, and to be bound over to keep the peace for such further time as the Court should think fit. The Bill also contained the singular clause that "The several Natives who have been arrested " or shall hereafter be arrested by virtue of the provisions of 'The Maori Prisoners " 'Detention Act, 1880' [passed less than a month previously] shall be deemed and " taken to be in custody under the provisions of 'The Maori Prisoners Act, 1880,' " and shall be detained accordingly:" that is to say, prisoners arrested under one Act shall, by virtue of the provisions of a second, be deemed to be arrested under a third, all passed in one session of Parliament.

36. The main purpose of the Act was unanimously approved; but the introduction into it of penal clauses led to animated discussion. Strange to say, however, this particular clause excited little notice in the House of Representatives.

Hansard, Vol. 37,
p. 482.

37. The Native Minister, in introducing the Bill, although alluding to "police " clauses," clauses under which "Natives may be apprehended and tried," made absolutely no reference to the clause affecting those already in prison, and which referred those arrested under one Act to the provisions of another. It was, of course, the object of this clause to set aside the proviso passed three weeks previously that no one arrested under the provisions of the Maori Prisoners Detention Act should be retained in custody beyond the 1st October. It may, however, possibly be doubted whether this object is secured. The Maori Prisoners Detention Act is still recognized as that under which the prisoners in question have been arrested; and, so long as the distinct proviso that prisoners arrested under that Act shall not be detained in custody beyond the 1st October remains unrepealed, it appears questionable how far it can be set aside by a clause in another Act relating to a different subject, and which enacts that the prisoners taken under the Maori Prisoners Detention Act shall be treated as prisoners under another Act, which also expires on the 1st October. It is true that "The Maori Prisoners Act, 1880," contains a provision enabling the Government to continue it in force for a limited period; but it may perhaps be questioned whether such an extension would apply to prisoners arrested under another Act, whose term of imprisonment under that Act had expired, although the proviso in question might regulate their treatment until that period. The intention of the clause is clear, from the Attorney-General's speech in the Legislative Council.

Hansard, Vol. 37,
p. 648.

38. It will be perceived that four different classes of persons are affected by the Acts now in force,—

- (1.) Those committed for trial by a Magistrate in 1879, but as yet untried;
- (2.) Those unable to find sureties to keep the peace on the expiration of the sentence legally inflicted on them in that year;
- (3.) Those who have been or may be arrested by order of the Government on any charge, or indeed on no charge at all, in a certain district of the colony;
- (4.) Those convicted under the provisions of the West Coast Settlements Act.

39. I must now recur to the circumstances which led to the passing of "The " Maori Prisoners Detention Act, 1880," and to the preparation of the penal clauses in the West Coast Settlements Act.

40. After the cessation of the ploughing operations at the end of July, 1879, the survey of the Waimate Plains for sale, and the construction of the road through the Parihaka District, were steadily prosecuted under the protection and with the labour of a party of Armed Constabulary. No event of importance occurred until May, 1880, when, unwarned by previous experience, the road was taken through a fenced field in the occupation of Maoris.

41. On the 9th June, 1880, Colonel Roberts, the commanding officer of the Armed Constabulary, telegraphed that the Natives had “repaired one of the fences broken down when the road-line was taken across through the Parihaka clearings,” and, on the 11th, that the Natives had “erected another fence, but I do not think it is in any way connected with blocking up the road, but simply as a divisional fence.” Telegrams,
Roberts to Bryce.

42. On the 16th he reports that “gaps will be made through three fences to-day.” Two of these three fences were those of a field in which the crops of the previous year were stored, and which had been prepared to be sown with corn, and the other that of a paddock which required but one fence, the other side being protected by water. On the day following, these gaps were filled up again by the Maoris, and, for about a fortnight, the fencing across these three gaps was repeatedly pulled down, and as repeatedly re-erected. Telegram,
Roberts to Bryce.
Testimony,
R. Parris.

43. On the 28th June, Colonel Roberts telegraphed as follows: “Te Whetu, Roberts to Bryce. Te Whiti’s secretary, and another Native, sent word that they wished to speak to me. I met them where the road is made through the fence. They asked me to put up a gate. I pointed out to them that a gate would not save the crops—suggested they should fence the road off. They said that it was too much work, and that they could not do it. I pointed out that it would not take long if they brought as strong a party as they had to-day. They replied that it would not take long if the soldiers would help. I agreed not to let the pigs into the sown paddock to-night, and to report to you. Te Whetu and party will return to-morrow for further talk. Please instruct me in the meantime. I am of opinion that the Natives would be willing to fence the road off if we assisted. The men seem to be in a very reasonable and talkative mood, and if carefully treated would be willing to come to reasonable terms. Te Whetu informed me that they would be sowing wheat to-morrow in the piece of land bounded by the fence where the Natives said he would not put it up again. Te Whetu wanted me to meet him there to-morrow. I refused, and told him he would have to come to me, to which he agreed.” The following day was a wet and stormy one, on which no work could be done, and the interview did not take place.

44. On the 15th July Colonel Roberts says, “Road party to-day employed between second Parihaka road from here and the Waitotoroa River. Had the fence pulled down. Two Natives came to put it up, stating that they did not want to stop the road, only to protect their crops. After a great deal of talk they asked if I would allow the fence to be put up high enough to keep out the pigs, and consented to have the fence in that state for the night. They are willing to put up a swing-gate. That question I did not settle. Told them that I would give them an answer to-morrow. Judging from their manner, I think a swing-gate would satisfy them. Please let me know if you will authorize such being done.” Telegram,
Roberts to Bryce.

45. I have been unable to find the reply sent to this telegram, but its nature is shown by a telegram sent by Colonel Roberts on the following day: “16th July.—Met Te Whetu and other Natives at the fence. I told them that you would only approve of a gate as a temporary measure until they had fenced the road off. He said that it was for us to fence—that he would not; that he would put it up as often as we took it down.” Telegram,
Roberts to Bryce.

46. On the 30th June Colonel Roberts had inquired whether he should arrest those who built the fence, and had received authority to do so. I cannot find, however, that any actual arrests took place before the 24th and 25th July, when a considerable number of Maoris were arrested at the fences. These men, of course, did not come under the provisions of “The Maori Prisoners Act, 1880,” already passed, and which referred only to those already in custody; and the short Act above referred to, “The Maori Prisoners Detention Act, 1880,” was hurriedly passed to meet the case, and to give power to the Government to detain, as prisoners, men whose offence, if a legal offence at all, was, as it was admitted, one of the slightest description.

47. A very singular state of things ensued. Almost every day a party of unarmed Maoris, sometimes three or four, sometimes a considerable number, Various tele-
grams.

came down to one or other of the fences and commenced fencing across the gap, when they were immediately arrested. They made no resistance, and came down to the work knowing perfectly well that they would be taken prisoners, and that their attempt to re-erect the fence would prove a mere demonstration—a demonstration repeated some forty or fifty times at least.

Telegrams,
passim.

48. In this course they persevered for nearly two months, during which time 216 of their number were arrested and despatched to different gaols in the Southern Island, under the Maori Prisoners Detention Act. Of this number, fifty-nine, who were arrested after the passing of the West Coast Settlements Act, were sentenced to two years' imprisonment under the penal clauses of that law. The last arrests took place on the 4th of September; but barriers continued to be frequently placed across the gaps, and the same process of fencing and pulling down might perhaps have continued to the present day but for a change in the form of the proceedings of the Natives. On the 12th November, the Maoris appear to have hit on an expedient which, had it been sooner adopted, might have saved much irritation, and preserved the liberty of those now in prison.

Bryce to Roberts.

49. On that day, the Maoris, instead of, as usual, erecting a solid fence across the road, put up slip-rails, which, of course, sufficed to keep animals out of the growing corn, yet which could be taken down to allow the passage of any horse or wagon using the road. Colonel Roberts telegraphed for instructions, and was very wisely told to allow the slip-rails to remain.

50. Since that date there has been no further attempt at fencing. No obstruction has in any other ways been at any time offered to the roadmakers.

51. Such is a brief, but, I believe, not inaccurate, account of the transactions on the West Coast during the last two years, and of the legislation consequent thereon.

Of the prisoners taken, 79 have since been released—56 of those engaged in ploughing, and 23 of those arrested for fencing.

52. My stay in New Zealand has been of such short duration that I hesitate to express, or even to form, any very confident opinion on the questions I have dealt with.

53. What was indeed in 1879 the actual position of the lands within the confiscated territory it would be very difficult to determine. That, as regards the district between the Waingongoro and Stoney River, the confiscation had for ten years been practically abandoned is a patent fact; but it had not technically been so, and, indeed, there has for some years past existed no machinery by which such confiscation could be formally reversed. It is, however, most important to observe that, whilst it is admitted that the confiscation did not touch the property of loyal Natives, no attempt had ever been made to define the localities or limits of such property. That the Crown, consequently, if the rights it had acquired by confiscation were still insisted on, possessed land, and that the Natives also possessed land, within the district in question, was clear; but, with regard to any particular spot or area, except perhaps what was actually in use and occupation, it would have been difficult to say with confidence that it was the property of either.

54. I have no doubt whatever that the Royal Commissioners are correct in their conclusion, that the ploughing of confiscated land was resorted to by the Maoris in order to force on the Government the consideration of their claims. Such proceedings have not been unusual in a similar state of society from the earliest times, and it is far from improbable that the idea may have been suggested to Te Whiti, who is a most diligent student of the Bible, by the example of the mode employed by Samson to compel the attention of the Philistines to his grievances. It may also be remarked that, if this was their object, it was completely successful. The proceedings of the ploughmen undoubtedly led to the appointment of the Royal Commission, and that Commission at once recognized the existence of the grievances, which had been derided as imaginary and unreal, which had remained for so many years unnoticed, and which, except for that Commission, would probably be yet undealt with, but which are now in the course of rapid and satisfactory adjustment.

55. But, whilst the Maoris would have been amply justified in taking such steps as might have raised an issue as to the ownership of the land in a form which

could not be overlooked, the persistence of their proceedings, the shape they took, and the alarming excitement created by them, rendered the forcible action of the Government imperatively necessary. It appears to have been delayed as long as possible, and I believe a disastrous war to have been escaped through its means.

56. In the subsequent dispute with respect to the fences,—a dispute which I cannot dignify by the name of “disturbance,” and which was, in fact, a quiet persistence in the assertion of rights of occupation,—the Maoris appear to me to have been substantially in the right, although undoubtedly wrong in the mode they took to assert their pretensions. Te Whiti, as I have before remarked, has never borne arms against the Crown, and he and others in the like situation are undoubtedly entitled to the full enjoyment and possession of their lands, even if situated in confiscated territory. The surveyors appear to have assumed that the land was altogether in the hands of the Crown, and to have acted on that assumption with somewhat unnecessary rigidity. Te Whiti, on the other hand, seems to have had no objection to the construction of the road, but to have been jealously apprehensive of claims which might be pushed to such an extent as to leave him landless and powerless.

It is difficult to believe that a conciliatory temper and a little common sense would not have easily arranged the difference at its commencement, either by then adopting the arrangement ultimately effected, or by directing the Armed Constabulary to fence the sides of the road where it passed through cultivation, a concession which, it seems to me, would have been only reasonable, and which was in the first instance recommended by the late Native Minister to Colonel Roberts. This course was not adopted, apparently owing to a reluctance to waste the labour of the force employed; but the amount of time consumed in pulling down the fence erected by the Natives some forty or fifty times, in effecting arrests, and conveying prisoners to gaol, must have been far greater than that which would have been lost had the Constabulary in the first instance performed this labour.

57. But, while I lament the occurrence of a misunderstanding which might I think have been avoided, I am not prepared to condemn the legislation of which it has been the cause. When once these men had been arrested, it is undeniable that their immediate release would have been attended with consequences fraught with danger. The Maoris would have been encouraged to attempt more questionable acts of resistance, and the irritation of the white settlers would have rendered it difficult for the Government to resist the adoption of measures pressed upon them with doubtless the best intentions, but certain to imperil, and almost certain to make impossible, the continuance of peace. I am therefore inclined to think that, in taking authority from the Legislature to detain the prisoners for a short period, the Government of New Zealand adopted the best course open to it.

58. The actual framing of the various enactments, however, appears to me to be open to much criticism, and the infliction of a penalty of two years' imprisonment for the offence of being *suspected* of *an intention* to commit any of the numerous acts made illegal by the West Coast Settlements Act is a provision which has few precedents, and those, precedents of an objectionable character.

59. A considerable number of the prisoners arrested under these Acts have already been released, and I have reason to hope that the greater part of the remainder will be so at no distant date.

60. I have already once extended the operation of “The Maori Prisoners Act, 1880,” as advised by the Cabinet, and I shall be prepared to do so once again, so as to continue it in force until the meeting of the Colonial Parliament. But I should experience considerable reluctance in prolonging its operation after that time, without a fresh expression of opinion and fresh action on the part of the Legislature. And it will be with regret that I shall witness the renewal for a longer period of legislation of so exceptional a character, and which, even if it be admitted to be in this instance needful, affords a dangerous example; for the precedent thus set may be hereafter far more easily followed with less reason, and its abuse afford a cloak to acts of grave oppression.

I have, &c.,

ARTHUR GORDON.

The Right Hon. the Secretary of State for the Colonies.

No. 2.

The PREMIER to HIS EXCELLENCY the GOVERNOR.

Memorandum for His Excellency.

THE Premier presents his respectful compliments to the Governor.

With reference to the despatch addressed to the Secretary of State for the Colonies, on the 26th February last, which was communicated to the Premier yesterday by His Excellency, the Premier feels it his duty to state that, in the opinion of Ministers, portions of that despatch are calculated to convey a wrong impression respecting the transactions relating to Native affairs, to which it refers.

Ministers will, with as little delay as possible, forward to His Excellency a memorandum explanatory of the points in question; but time will not admit of their doing so before the closing of the English mail on the 21st instant.

Wellington, May 19, 1881.

JOHN HALL.

No. 3.

The PREMIER to HIS EXCELLENCY the GOVERNOR.

Memorandum for His Excellency.

THE Premier presents his respectful compliments to His Excellency the Governor; and, in compliance with the intention stated in a memorandum dated 19th May, has now the honor to forward a further memorandum on His Excellency's despatch addressed to the Secretary of State for the Colonies on the 26th February.

2. In the memorandum of 19th May, the Premier stated that, in the opinion of Ministers, portions of His Excellency's despatch were calculated to lead to erroneous conclusions as to the transactions connected with Native matters on the West Coast, which were the subject of that despatch. Ministers believe the following remarks will show that as to some matters His Excellency has evidently fallen into error; and that the omission of facts in some instances, and the manner in which they have been stated in others, will give to persons in England a wrong impression.

3. With reference to His Excellency's statements in paragraph 3, as to the difficulties he had met with in preparing the despatch, Ministers regret very much that when His Excellency requested to be supplied by them with information on this subject, they were not asked for details and explanations upon all points respecting which His Excellency felt it to be his duty to express disapproval or doubt. Such aids would have been readily given: without them, as Ministers believe, the most laboured study of official documents could not enable just conclusions on so complicated a matter to be formed by any one recently arrived in New Zealand.

4. Referring to the alleged abandonment of the confiscation between the Waingongoro and Stoney River, Ministers fear that the despatch must convey a wrong impression of facts. The record by Sir Donald McLean, which is stated to show that it was generally understood, as well as intended by Sir Donald, that the confiscation between those rivers "had been abandoned by the Government," is no doubt a memorandum by the then Under Secretary for the Native Department, Mr. Cooper, which is stated to have been minuted "Approved," by Sir Donald. The memorandum is dated December 25th, 1871, and Sir Donald McLean's minute was made on the next day. This approval, as it appears to Ministers, only applied to certain action recommended in the memorandum, and not to the opinion as to the confiscated lands expressed in it. The West Coast Commissioners, after full consideration of the minute, are not of opinion that it is evidence of Sir Donald McLean's intention to abandon the confiscation; and there is no reason for believing that its purport was communicated to the Natives concerned. Still further, no evidence can be found for believing that the minute was ever seen by Sir Donald's colleagues, or by any person outside the Native Office, or that its existence was in any way made public, prior to the presentation to Parliament of the Commissioners' reports. What Sir Donald McLean's view of the question was, is conclusively proved by what he said in the House of Representatives on the 30th July, 1872, upon a motion by Mr. Parata, the representative of the Western Maori District, "That, in the opinion of this House, it is desirable that the confiscated lands should be restored to the Native owners thereof." Sir Donald then stated, that "the Assembly having taken up the question and gone into its merits, had declared that the lands which had been confiscated after due proclamation by the Governor could not be restored." The Compensation Courts, he said, had made inquiries into many claims; "and although, in some instances, no inquiry had been made where property was confiscated, yet that was not the fault of the Government." The motion was negatived. Face to face with Natives interested, Sir Donald held the same views; for, addressing a large meeting of Natives at Putiki, Wanganui, in January, 1873, he told them, "In reference to the land north of Waingongoro, I am not aware of its having been given up, as you say. No, none of it has; and any Europeans who have been dealing with Natives there, had no authority whatever to do so." Notes of this address, in Sir Donald McLean's writing, were left by him in the Native Office. The telegram of Sir G. Grey, to which His Excellency refers as evidence of the intention to restore this land, really related not to the whole confiscation north of the Waingongoro, but to portions of it only, namely, to the Parihaka Block, and to other portions which had already been returned to the Natives. This is manifested by the actions of Sir George Grey's Government, as well as by his words. His Government commenced to survey the land, and advertised portions of it for sale; and the Minister for Public Works in that Government (Mr. Macandrew), officially minuted his belief that the sale of the Waimate Block would realise nearly half a million sterling. Mr. Parris states that these Natives never had any doubt as to the confiscation not being abandoned.

5. The question of surveying these lands was, indeed, with the Government of Sir Julius Vogel, of Dr. Pollen, and of Major Atkinson—Sir Donald McLean being Native Minister in all three—regarded only as one of when it would be politic to begin the work, which the Government of Sir George Grey eventually initiated.

6. Paragraph 12 of the despatch is not to be easily understood, and is difficult of reconciliation with paragraph 9, the statements in them as to reserves being apparently contradictory. Reference is made to the purchase from the Natives of 185,000 acres of land between the Waitotara and Waingongoro rivers; and the inference seems to be drawn that this is an apparent recognition of the title of the Natives to the land north of the Waingongoro. While Ministers cannot admit that this is the case, they submit that the restoration to the Natives south of the Waingongoro of such a large area in excess of their requirements, is a striking proof of the liberality of the Government in their dealing with that portion of the confiscated lands, and an indication of the course which was about to be taken with the lands north of that river, when Te Whiti forcibly stopped the survey by removing the surveyors. It may not be out of place to mention here, that the estimated present value of the reserves made and promised for Natives in this district, "who never numbered more than 3,000," and are now said to be less, is shown by the Commissioners' report to be £638,555, and that this value is mainly due to roads and railways made at the cost of the colony.

7. With reference to the statement in paragraph 15, that the Natives had reason to fear the land would be sold without reserves being made for them, and that Te Whiti would have been far from unwilling to accept adequate reserves, Ministers must remark, that it appears certain from a variety of documents that it was not reserves Te Whiti required, but that he laid claim to all the land between Stoney River and the Waingongoro. This claim was plainly asserted during the interview Mr. Mackay and Captain Blake had with him in April, 1879. Soon after the talk began, Te Whiti declared, "The land is mine, not that of the Governor. I am the owner of the whole;" and he afterwards said, "The Governor has no claim on the lands this" (North) "side of Waingongoro." Certainly, Te Whiti never availed himself of the opportunities which were afforded for obtaining the most ample reserves: what he claimed was supreme authority over all the land in that part of the colony.

8. The statement made in the despatch, that 4,850 acres intended to have been given to friendly Natives who were owners in the Oakura Block, have not yet been given to them, is erroneous. This block was specially dealt with, because of the murder, by residents and owners of the land, of a party of soldiers upon the Oakura beach. The land was taken absolutely, without reservations in favour of friendly Natives or other persons: but the friendly Natives were entitled to compensation under an Act of Parliament, in terms of which large reserves were made. These reserves were accepted under deed, in 1866; and not only have the Natives been put in possession of the land so promised, but long since, with their consent, it was divided among the three hapus of the tribe interested, and they have remained in unquestioned possession ever since. His Excellency, in the same paragraph, quotes a statement of Colonel Whitmore, that "the land ploughed was in each case land bought, not confiscated, and had, moreover, remained for 15 years unpaid for." The answer to this is, that all the ploughing was done on confiscated land, except a small portion in Bell Block: which block was bought and paid for 30 years ago, and has been in the undisputed possession of Europeans since that time.

9. Ministers respectfully submit to His Excellency, that portions of the despatch convey an altogether wrong impression of the attitude of the settlers under great and continued provocation, through the presence of the Maori ploughmen on their farms and homesteads, and under what, in the circumstances, was a natural fear for the safety of their wives and families. There are abundant official documents which prove that the settlers at each end of the district desired to leave it wholly in the hands of the Government to deal with the ploughmen, and did not desire to interfere themselves. His Excellency quotes a telegram sent to Sir George Grey by Mr. Courtenay, as evidence to the contrary; but Mr. Courtenay, on the same day that this telegram was sent, agreed to leave his case in the hands of the Government. On the same day, Sir George Grey telegraphed this to Mr. T. Kelly, M.H.R.; and at a later period he recognised that intruding Natives had been removed as he had advised, namely, with firmness, but without insult or violence. At the outset, individual settlers may have used strong language: but Ministers must repeat, that official records prove that the settlers as a body showed great forbearance and self-restraint; that their conduct, under conditions that were most irritating and trying, was recognized by Sir George Grey's Government as proper, and as helpful to the authorities; and that that conduct deserves, in truth, the highest praise.

10. In paragraph 21, His Excellency says of Sir George Grey's Government, "It cannot be a matter of surprise or blame that they should have hesitated to comply with the demand urgently made for the general arming of the whole white population of the district, and their enrolment as a military force—steps which must almost inevitably have led to collision between the races." What are the facts? The first ploughing took place on May 25th. On the 1st June, His Excellency Sir H. Robinson, with Sir G. Grey and Colonel Whitmore, arrived in New Plymouth, and proceeded at once to organise and arm the settlers; the Taranaki Volunteers being regarded as enrolled from the 28th, and those of Patea from the 30th May. Practically, the whole male population in the Okato and Oakura districts was armed by the Government. On the 4th June, an officer was sent to Patea; on the 8th, the Armed Constabulary were removed to Oakura. Sir George Grey, speaking in his place in the House on the 18th July, declared that the first point to which he directed his attention after arriving at New Plymouth, was to attend to the arming of the European population; and that he then sought to place bodies of Armed Constabulary so that at any point likely to be threatened the Europeans should have the superiority. The Government of the day, therefore, did promptly, and as Ministers believe did wisely, that which His Excellency says, if it had been done, would "almost inevitably have led to collision between the races."

11. There are some inaccuracies in the statements as to the order in which arrests were made; but these are not material. The facts of importance are, that the settlers were organized and armed

by the Government for some three weeks prior to any arrests being made by the Constabulary; and that the removals of ploughmen from settlers' lands without arrest were chiefly made by armed settlers, without any unnecessary violence.

12. Ministers do not think it necessary to criticise, or to attempt to defend, the course taken by the Legislature as regards the measures under which the Maori prisoners were kept in confinement. Ministers will only say that they believe the explanations already given in Parliament and out of it—and especially those contained in a memorandum by the late Native Minister, Mr. Bryce, which, with other papers, was sent to His Excellency on the 24th December last—completely justify the course of the Legislature.

13. Coming to the question of the obstruction to the Government road-works, which led to the arrest of many Natives, His Excellency speaks of a road that was "taken through a fenced field in the occupation of Maoris;" and, in a subsequent paragraph, there is reference to damage done to Native cultivations. There were no growing crops in the field when the road was laid off. Potatoes and other produce were in Native storehouses there, out of the reach of cattle or pigs; and, as matter of fact, pigs and other animals belonging to Natives were, at the time, freely running in the field. The Natives did not attempt to dig, as if preparing for cultivations, until the road through the field had been laid off and partly constructed. Danger of injury to crops or cultivations was, therefore, not the cause of the Natives' opposition to the road. The cause was, that it was necessary they should deny the right of the Government to make a road which Te Whiti had declared would never be made, and which it was of great consequence the Government should complete.

14. The account given in paragraph 43, as to a proposal for fencing-off crops or cultivations, is incomplete. It should be added that Colonel Roberts, in answer to his application on the subject, was directed to comply with the suggestion of the Natives and allow the Constabulary to assist in the work, and that he was ready to do so. The reason why nothing was done was, that the Natives did not return, as they had promised to do for this purpose. Subsequently, Colonel Roberts did fence-off a part of the road, but the fencing was immediately destroyed by the Natives.

15. Ministers cannot agree that the arrest of men in connection with these fences was, in the circumstances, unnecessary. In paragraph 46 of the despatch, they are spoken of as "men whose offence, if a legal offence at all, was, as it was admitted, one of the slightest description." But, in fact, by obstructing the making of the road, they endangered the peace of the Colony: their offence was a continued open resistance to the Government of the country, which, through the merest accident, might have led to a war of races. Nor should it be left unrecorded that, though the number of arrested fencers was large, many Natives who committed the same offence were not arrested, but were simply turned away.

16. The imprisonment to which these Natives have been subjected, has been regarded by the Government not so much as punitive, as calculated to avert a war, the effects of which would have been most disastrous to the Maori race. The results of the Government's action have amply justified it. The prisoners have now been returned to their homes, stating openly their determination to abstain from further interference with the road, and to live in peace with the Government and the Europeans.

17. With respect to the statement in paragraph 53, that no attempt was made to define the localities or limits of lands of loyal Natives, it must be remembered that, as a fact, those Natives had not been interfered with, but remained in occupation. So far as any actual definition of those lands might have been required, it would have formed part of the work of the survey commenced by the late Government, but interrupted by the Natives. The reasons why it was not attempted at an earlier date, sprang from causes for which the Natives themselves were solely responsible.

18. As to paragraph 54 of the despatch, Ministers adhere to the opinion expressed by the late Native Minister, in the memorandum by him which has already been referred to, that the ploughing meant much more than an attempt by the Natives to force upon the Government a consideration of their claims: that it involved a raising of the question whether the Europeans were to be allowed to retain their hold upon the territory of that portion of the colony. Documents appended to the reports of the West Coast Commissioners—the reports of the interview of Te Whiti with Mr. Mackay mentioned above, and many other reports and papers—show that Te Whiti's contention throughout was, that the whole of the land was at his disposal. That the ploughing was only meant to compel attention to grievances, is not consistent with the fact that several offers were made to investigate the matter, but were refused. Even an offer made by Sir George Grey, that all questions should be investigated by a competent tribunal, at the cost of the Government, was put aside by Te Whiti. He and his followers were in actual possession of far more land than they could possibly have got under any claim or any investigation of grievances. While so in possession, they obstructed the formation of roads, the construction of a telegraph, and the erection of a lighthouse—works that were necessary in the interests of the colony. All evidence points to the conclusion that Te Whiti's aim was to establish himself as an independent authority.

19. Ministers regret that His Excellency should have come to the conclusion, stated in paragraph 56, that, in the dispute as to the fences, the Maoris were substantially in the right. Ministers are unable to discover the grounds for such a conclusion. It cannot be doubted that Te Whiti was aware of the readiness of the Government to make ample provision for him and for his followers; there is abundant evidence that he rejected all overtures on the part of the Government, as he has since rejected an invitation from the Governor to meet His Excellency, for the purpose of discussing grievances; and the action as to the fences, taken by his direction, must be regarded as only an additional assertion of his independence of the Government of the colony. Ministers believe it was the imperative duty of the Government to resist such assertion.

20. The account of the position assumed by Te Whiti, of the effect of his influence, and of the motives for his action, appears to Ministers to be incomplete; and, inasmuch as what is omitted is important in any review of the action of the Legislature and the Government, they think the following facts deserve consideration:—In September, 1878, John McLean, cook to a survey party engaged in

surveying part of the confiscated land, was murdered by a Native named Hiroki. The murderer took refuge with Te Whiti, who declined to give him up, and still shelters him. In March, 1879, the Native Minister met Te Whiti at Parihaka, and demanded that Hiroki should be given up. This request was rejected by Te Whiti, who said that the Supreme Court might go there and try Hiroki *under his directions*. The Native Minister then explained the action that the Government were about to take on the Waimate Plains, the survey of which had gone on in conformity with the intimation he had given to Te Whiti before it commenced. But before this explanation had proceeded far, Te Whiti poured out a violent torrent of words, saying, *inter alia*, that "He did not care for the Parliament that met in Wellington; that those who came under him, and met at Parihaka, were the Parliament of New Zealand, and would decide everything." On the 24th March, 1879, he ordered all the surveyors to be turned off the Plains.

21. Ministers must repeat, in reply to the 57th paragraph, that they are unable to gather from events and recorded opinions, that there was any desire on the part of the settlers to urge the adoption of measures which would have imperiled the peace of the country. The opinion of Ministers is, that the settlers were prepared to accept, and ready to assist the Government in carrying out, such measures as were fairly likely to secure to them the quiet possession of their properties, purchased from the Crown, and the safety of their wives and children.

22. The release of the Maori prisoners, which has now been effected, renders it unnecessary to discuss the course which Ministers would have felt it their duty to advise in circumstances which no longer exist. In recommending the release of these prisoners, Ministers have followed the course they laid down for themselves, after anxious consideration of what would be best in the interests of the country. When Ministers believed that the action of the Maoris threatened disturbance to settlers in the quiet possession of their homesteads, and the possible slaughter of their families, to be followed by war, Ministers did not hesitate to advise exceptional treatment of those whose acts made such consequences possible. Ministers will not entertain a doubt that had they felt it their duty in the interest of New Zealand to advise a continuance of such exceptional treatment of wholly exceptional offenders, as was authorized by law, they would have received sympathy and cordial co-operation from His Excellency the Governor.

23. Ministers are confident that His Excellency has been desirous of conveying to the Secretary of State an impartial account of the transactions referred to in his despatch; but they trust that the explanations which they have now given, and which might have been largely added to, will satisfy His Excellency that in some material particulars his account is calculated to convey very erroneous impressions, and that he will endeavour to secure that such publicity as may have been given to the despatch shall be given to this memorandum.

June 15th, 1881.

JOHN HALL.

No. 4.

His Excellency the GOVERNOR to the SECRETARY of STATE for the COLONIES.

(No. 37.)

Government House, New Zealand, 18th June, 1881.

MY LORD,—

I have the honor to enclose a memorandum addressed to me by the Premier, in reply to my Despatch No. 11, of the 26th February.

2. In compliance with the wish expressed by Mr. Hall, I at once forward this memorandum, although, owing to the late date at which it has been handed to me, I must reserve all detailed comment upon it until the next mail.

I have, &c.,

The Right Hon. the Earl of Kimberley,

ARTHUR GORDON.

&c., &c., &c.

No. 5.

HIS EXCELLENCY the GOVERNOR to the PREMIER.

THE Governor has read Mr. Hall's memorandum of the 15th instant with very careful attention, and has forwarded a copy of it to the Secretary of State for the Colonies.

The Governor has also requested that, if his own despatch No. 11, of the 26th February, should be laid before Parliament, equal publicity may at the same time be given to Mr. Hall's comments on its contents.

His Excellency cannot, however, concur with Mr. Hall in considering that, in any "material particular," that despatch is likely to convey erroneous impressions of the transactions it narrates.

The Governor does not deem it necessary, or desirable, in the present memorandum, to enter into any argument to show why, in his opinion, the observations made by Mr. Hall do not affect the general accuracy of the statements contained in his despatch, or the correctness of the views which he has himself expressed. His Excellency has, to the best of his ability, discharged a duty imposed upon him by Her Majesty's Government, for the performance of which he is personally responsible. He has done so with the desire, above all things, to render a judicially impartial account of the transactions on which he was directed to report, and he perceives with pleasure that the existence of that desire is fully recognized by Mr. Hall.

If His Excellency has, in the composition of his despatch, been influenced by any bias, it has been that caused by an anxious wish to find in the acts of those public men, of all parties alike, to whom the administration of the affairs of this colony has from time to time been successively intrusted, evidences of that calm and large-minded statesmanship which it is of so great moment to the welfare of the colony that those who obtain the confidence of the Legislature of New Zealand should possess.

Having in this spirit prepared the report which he was directed to furnish, and being aware that Mr. Hall's remarks will be considered by Her Majesty's Government as carefully as the despatch to which they relate, it is the Governor's intention to abstain from all controversy with the members of the Executive Council as to the opinions which he and they may respectively have formed.

His Excellency regrets that his own views on the subject, and those of Mr. Hall, should not, in all points, coincide; but he cannot deem it to be matter for surprise.

It is only natural that events should bear, to the actors in them, a somewhat different aspect from that which they present to a dispassionate and uninterested spectator.

It could hardly be expected that the Governor's present Advisers, and those who preceded them in office, should take precisely the same view of any complicated series of political transactions; or that a Governor, by whom these transactions are necessarily regarded in a purely historical light, should agree wholly with either.

His Excellency has not sought to obtrude his views upon the notice of others, nor was he by any means desirous of giving utterance to them at all; but, when called upon to do so by those who have a right to require it of him, he cannot assign as his opinions any but those which he in truth holds, or narrate facts otherwise than as they appear to him to have occurred.

His Excellency does not presume to say that the opinions expressed in his despatch are in all cases well founded, or that his judgment as to facts may not be in some instances mistaken. But after full consideration of the points urged in Mr. Hall's memorandum, and a very careful reperusal of the documentary evidence relating to them, he sees no reason, in any important particular, to alter or modify the conclusions at which he had previously arrived.

Government House, Wellington, 12th July, 1881.

No. 6.

THE PREMIER to HIS EXCELLENCY the GOVERNOR.

Memorandum for His Excellency.

THE Premier presents his respectful compliments to the Governor; and has the honor to inform His Excellency that Ministers are of opinion that the publication of the despatch from His Excellency to the Secretary of State for the Colonies, respecting Native matters on the West Coast of this Island, would injuriously interfere with the settlement of any existing difficulties with Maoris in that part of the colony.

For this reason, Ministers think it desirable that the despatch should not, for the present, be made public. They, therefore, respectfully ask that His Excellency will telegraph to the Secretary of State their request that the despatch may not be published at present, and the expression of their hope that any intended publication of the document will be so made known to them, that their opinion as to such publication may reach, and be considered by, the Imperial Government.

Wellington, July 13, 1881.

JOHN HALL.

No. 7.

HIS EXCELLENCY the GOVERNOR to the PREMIER.

Memorandum.

THE Governor has duly received Mr. Hall's memorandum of this day's date, and will comply with the request which it contains.

Government House, Wellington, 13th July, 1881.

ARTHUR GORDON.

No. 8.

[By a telegram dated July 1st, the Governor informs the Secretary of State that Ministers desire not to lay the Despatch No. 11, of February 26th, before the Colonial Legislature, and wish its presentation to the Imperial Parliament to be delayed as long as possible.

On the 18th July, the Governor telegraphed requesting that the Secretary of State would inform him beforehand, by telegraph, when the despatch was likely to be presented to Parliament; and repeating that Ministers wished presentation to be delayed.

The Secretary of State replied that he would delay publication, if possible; but that, as the papers had been promised, they must be published if pressed for.]

No. 9.

HIS EXCELLENCY the GOVERNOR to the SECRETARY of STATE for the COLONIES.

(No. 43.)

Government House, New Zealand, 16th July, 1881.

MY LORD,—

In my Despatch No. 37, of the 18th June, I had the honor to enclose a memorandum of the Premier, Mr. Hall, containing comments on the contents of my Report No. 11, of the 26th February.

2. I have now the honor to transmit the copy of another memorandum, which Ministers request may be substituted for that enclosed in my previous despatch.

3. The only difference between the two versions of this paper will be found in the third paragraph.

4. On reading the third paragraph of the original memorandum, I pointed out to Mr. Hall that the words employed by him in it must necessarily be understood, by all who saw them, as implying that I had not made application to Ministers for information in the preparation of the report in question, and that they were ignorant of my intention to write it. That it was not intended to convey such a meaning I, of course, felt assured, as Mr. Hall well knew that I had made no secret of the orders I had received to prepare such a report; that I had requested Ministers to supply me with all possible materials for its composition; and that I had conversed repeatedly with him, and other members of the Cabinet, on the subject treated of in it. What Mr. Hall no doubt really meant, was to express regret that I had not, on *all* subjects touched on in that despatch, sought for oral explanations from Ministers,—a very different matter. But the inference to be drawn from the words used was not the less inevitable because unintended. Mr. Hall, I am happy to say, recognized the justice of my observations, and has modified his memorandum accordingly.

5. On this third paragraph of the memorandum, as it now stands, I have only to remark that it was my desire to obtain all possible information, and hear all opinions discussed, before writing my report, and that I am not conscious of having failed in this respect. When the despatch was finally sent off, both Mr. Hall and Mr. Rolleston, the Native Minister, were absent from Wellington; and, in their absence, I submitted the narrative portion of it to the Under-Secretary for Native Affairs, an officer of long experience in that department, who, after a careful examination, pronounced it to be correct.

6. To Mr. Hall's memorandum I have returned the reply of which I have the honor to enclose a copy, in which I have declined to enter into any controversy with my Ministers respecting the contents of my report; nor am I desirous of doing so in an indirect manner, by addressing a despatch to your Lordship which, when communicated to them, may appear to invite a further discussion of controverted details. Except in a few comparatively unimportant points, I see no cause to withdraw, modify, or alter anything that I have written in my despatch of the 26th February; and, should your Lordship think it desirable that the memorandum of Mr. Hall should, when presented to Parliament, be accompanied by my own criticisms on its contents, they can be very easily furnished. As, in any case, a despatch forwarded by this mail must arrive in England too late to be laid before Parliament during the present session, the delay caused by awaiting the expression of your Lordship's wishes on the subject will not be of any serious moment.

7. Mr. Hall seeks to show that I have in some instances unintentionally misstated matters of fact, and have in others drawn erroneous deductions from circumstances the true bearing of which I had failed to comprehend.

8. The questions of actual fact, as distinguished from the appreciation of the significance of facts, in which Mr. Hall considers me to be in error, are comparatively few, and with respect to some of these few points he has misunderstood me: but certain errors of detail the memorandum does, no doubt, point out. It was hardly to be expected that, in a narrative dealing with transactions so complicated, and extending over so long a period, I should altogether escape them: but they are for the most part of little importance, and in some other cases the supposition that I have made erroneous statements seems to be due to the fact that the writer of the memorandum has failed to appreciate the exact weight of the words used by me, which were not carelessly chosen.

The Right Hon. the Earl of Kimberley,
&c., &c., &c.

I have, &c.,
ARTHUR GORDON.

II.—NATIVES IMPRISONED FOR PLOUGHING.

No. 1.

His Excellency the GOVERNOR to the SECRETARY of STATE for the COLONIES.

(No. 19.)

MY LORD,—

Wellington, New Zealand, 14th April, 1881.

I have the honor to inform your Lordship that, in accordance with the advice of my Council, I have extended, for a further period of three months, the operation of the Act ("The Maori Prisoners Act, 1880") under which the Maori prisoners now in custody for participation in the ploughing and fencing which took place on the West Coast in 1879 and 1880 are detained.

2. In assenting to this recommendation I have informed the Premier, Mr. Hall, that, as the Parliament of New Zealand will be in session within three months from this time, I shall experience considerable reluctance to again extend the operation of this Act without previously learning in some manner the opinion and wishes of the Legislature on the subject.

The Right Hon. the Secretary of State for the Colonies,
&c., &c., &c.

I have, &c.,
ARTHUR GORDON.

No. 2.

His Excellency the GOVERNOR to the SECRETARY of STATE for the COLONIES.

(No. 28.)

Government House, Wellington, New Zealand, 23rd May, 1881.

MY LORD,—

I have the honor to inform your Lordship that during the past month one hundred and sixty-one Maori prisoners, arrested under the Acts of 1879 and 1880, referred to in my Despatch No. 11, of the 26th February, have been released. Of these, forty-seven had been arrested for "ploughing" and one hundred and fourteen for "fencing."

The number, therefore, of these prisoners still remaining in custody is one hundred and fifty-six.

The Right Hon. the Secretary of State for the Colonies.

I have, &c.,

ARTHUR GORDON.

No. 3.

His Excellency the GOVERNOR to the SECRETARY of STATE for the COLONIES (Telegraphic).

ALL the remaining prisoners referred to in my Despatch No. 28, of the 23rd May, are released.

Wellington, June 3.

No. 4.

The SECRETARY of STATE for the COLONIES to His Excellency the GOVERNOR.

(No. 33.)

SIR,—

Downing Street, 27th July, 1881.

I have the honor to acknowledge the receipt of your Despatch No. 28, of the 23rd of May, reporting the release of one hundred and sixty-one of the Maori prisoners arrested under New Zealand Acts of 1879 and 1880.

I have, &c.,

Governor the Hon. Sir A. H. Gordon, G.C.M.G., &c.

KIMBERLEY.