

Enclosure.

Mr. DUNCAN to the EARL of CARNARVON.

MY LORD,—

47, Finsbury Circus, E.C., London, 23rd May, 1874.

I have the honour to ask your Lordship's attention to the communication addressed by Messrs. Kimber and Ellis, in September of last year, to Her Majesty's Principal Secretary of State for the Colonies, urging the claims of Mr. W. Webster, a citizen of the United States, in respect of certain lands in New Zealand. In a note from the Colonial Office acknowledging receipt of that communication it was stated that his Lordship would "forward a copy of it to the Governor of the colony, with a request that the subject may be reported upon." A letter of the 20th February from New Zealand brings Mr. Webster information that about a month previous thereto "the original documents in the Crown office had been referred to the Governor, the Home Government having written asking inquiries to be made," &c.

Being now charged by Mr. Webster with the conduct of his claims, I respectfully beg leave to direct your Lordship's attention, in addition to the foregoing, to the communication of the then Envoy Extraordinary and Minister Plenipotentiary of the United States addressed to the Earl of Aberdeen, at that time (December, 1843) Her Majesty's Principal Secretary of State for Foreign Affairs. In that communication the principles are stated upon which Mr. Webster relies for the recognition of his rights by Her Majesty's Government, and for protection for those rights by his own. In the reply of Lord Aberdeen, dated 10th February, 1844, the statement occurs that, "where aliens had acquired lands from the chiefs prior to the proclamation of the Queen's sovereignty there, and that fact was undisputed, the claims should be acknowledged; but that where a doubt arose whether the alien made a *bonâ fide* purchase of the land, the settler should be treated as any British subject, and his claim disposed of accordingly." Here I ask leave to call your Lordship's very special attention to the important circumstance that Mr. Webster "*had* acquired all his lands from the chiefs *prior* to the proclamation of the Queen's sovereignty, and that fact is undisputed." Notwithstanding this undisputed and indisputable fact, it was only after the lapse of many years that about 16,500 acres were awarded to Mr. Webster out of 350,000 acres bought and paid for by him "*prior* to the proclamation of the Queen's sovereignty" over those islands.

I have now to ask your Lordship's attention to the reply from the Foreign Office (dated 30th October, 1873) to the communication addressed by Messrs. Kimber and Ellis in September of that year to the Right Hon. the Earl of Kimberley, and to request that I may be informed whether it is the view of Her Majesty's present Government that Mr. Webster should be referred to the Colonial Government to obtain redress for the losses and injuries he has sustained from the acts of official personages executing the orders of the Home Government, or acting in their official capacities *ultra vires*. Mr. Webster desires respectfully to state that he should be obliged to decline to recognize the Colonial Government as his debtor in respect of the claims put forward by him, and, that he may know precisely the views of Her Majesty's Government upon this point, in order to determine his own course, he begs that your Lordship will relieve him from the doubt raised in his mind by the somewhat ambiguous language of the last paragraph of Mr. Herbert's note. At the period of life he has now reached Mr. Webster can ill afford to abide delays, and, as he has remained in London until this time, in the hope that the report from the Governor would be sent forward without undue delay, and that upon receipt of it Her Majesty's Government would be not only ready and willing, but also prepared, by a sufficient acquaintance with the facts, to deal with his claims, he hopes the arrival of such report at the Foreign Office will be kindly notified to him through the undersigned. While yet in England Mr. Webster is desirous that your Lordship may, if possible, indicate a *modus agendi* which would admit of his personally bringing this most serious business to a speedy conclusion in some manner alike just, honourable, and satisfactory to Her Majesty's Government and to himself. Finally, I beg leave to submit herewith, for convenience of reference by your Lordship, a printed copy of the statement of Mr. Webster's case as laid before the Right Honourable the Earl of Kimberley by Messrs. Kimber and Ellis.

I have, &c.,

L. C. DUNCAN.

The Right Hon. the Earl of Carnarvon,

Her Majesty's Principal Secretary of State for the Colonies.

The GOVERNOR of NEW ZEALAND to the SECRETARY of STATE for the COLONIES.

MY LORD,—

Government House, Wellington, 1st August, 1874.

According to my promise in my Despatch No. 55, of yesterday, sent by way of San Francisco, I have now the honour to transmit copies of minutes upon the correspondence transmitted by the Earl of Kimberley in his Despatch No. 75, of the 30th October, 1873, and by your Lordship in your Despatch No. 23, of the 1st June, 1874, by the Commissioner of Crown Lands and the Colonial Secretary, the latter of whom knew Mr. Webster during the period of his residence in New Zealand, and is well qualified to judge of the merits of the case. These Ministers set forth the entire history of the transactions between the Government and Mr. Webster.

2. The most important point appears to be his present claim that his case should have been considered strictly as that of an American citizen. The records show that he elected to have his claims referred to the Commission appointed for the purpose of adjudicating upon such claims to land not granted by the Crown, after he had been informed by the Governor that he could only consent to their being "laid before the Commissioners in the usual way" if "they were lodged as a British subject." Mr. Webster, indeed, made no such explicit declaration, but replied, I am told, after some hesitation, "I wish my claims to be laid before the Commissioners, and am willing to take my chance with all others." He appeared and prosecuted his claims before the Commissioners.