

16th January last; but Her Majesty's Government appear to me to be in error in stating in the same note that it is clearly shown that Mr. Webster in the first instance, when bringing his case before the Land Commissioners under the colonial Act of 1856, waived his right to be treated as an alien, and so debarred himself from the right to claim anything beyond what was awarded to him by the Commission.

An examination not only of the memorandum, but also of the evidence heretofore presented in opposition to Mr. Webster's claims by the authorities of New Zealand, shows that he never brought his claim before the Commissioners under the colonial Act of 1856. He was at that time in the United States, and was pressing his claims upon my Government, having then been absent from New Zealand for nearly two years, during which period the Department of State fails to find that he had any correspondence with the local authorities, or was in any way aware of or countenanced what they did under the Land Act of 1856.

I am instructed to bring these facts to the attention of your Lordship, and to express the hope that, as my Government is of the opinion that the reply of Her Majesty's Government to the representations set forth in the memorandum transmitted with my note of the 11th October, 1890, is based upon a misconception of the essential facts, and cannot therefore be considered as satisfactory or conclusive, Her Majesty's Government will readily reconsider its view upon the subject.

The Marquis of Salisbury, K.G., &c.

I have, &c.,

HERBERT T. LINCOLN.

## Enclosure 2.

The AGENT-GENERAL to the COLONIAL OFFICE.

SIR,—

13, Victoria Street, 15th July, 1891.

I have to acknowledge the receipt of your letter of the 3rd instant, covering further correspondence on Mr. Webster's land-claims in New Zealand.

I am sorry I did not see the Law Officers' report at the time, because it evidently was the cause of the mistaken reference to the Act of 1856 instead of the ordinance of 1841 in the Foreign Office note of the 19th [? 16th] January last. Nevertheless, the tenor of that note plainly indicated which colonial law was meant, and the United States Government could not have been under any real misapprehension on the subject.

I think it is essential not to let the Act of 1856 come into the question, because it has nothing to do with the point that is really at issue. The whole contention of the United States Government is that Her Majesty's Government ought to grant redress to Mr. Webster as an American citizen, on the ground that every proceeding under the colonial legislation was "in derogation of the principle conceded to Mr. Everest by Lord Aberdeen in 1844;" whereas the stronghold of the Foreign Office is that when Mr. Webster submitted to Governor Fitzroy's condition in 1841 he debarred himself from coming in afterwards as an American citizen at all.

This is perfectly safe ground, and it would be unwise to step outside of it. The United States authorities know very well that protests against the proceedings of the Colonial Government and Legislature will do nothing for Mr. Webster unless he can be brought in as an American citizen under Lord Aberdeen's note, and therefore it is only on this point that Her Majesty's Government need take their stand in answering Mr. Lincoln's fresh representation.

I would therefore recommend that, while expressing regret for the mistaken reference to the Act of 1856 instead of the ordinance of 1841, the American Minister should be informed that the mistake was really immaterial, because, Mr. Webster having voluntarily accepted the condition imposed on him by Governor Fitzroy, and having submitted his claims as a British subject under the colonial ordinance of 1841, Her Majesty's Government are unable to admit that he could at any time afterwards bring in a fresh claim as an American citizen under Lord Aberdeen's note to Mr. Everest of the 10th February, 1844.

I beg to return, as desired, the papers noted in the margin.\*

I am, &c.,

The Under-Secretary of State for the Colonies, Downing Street.

F. D. BELL.

\* Law Officers' report; memorandum sent in by Mr. Lincoln; New Zealand Parliamentary Paper, 1887, A.—4; letter from Mr. Lincoln to Lord Salisbury; letter from Sir F. D. Bell to Colonial Office.

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