

quoted; and I submit that, if that principle is applied to New Zealand, it will be seen that it is entirely a misnomer to speak of New Zealand as a State or nation at the time of Mr. Webster's alleged purchases. The fact is that the various tribes that inhabited the colony at that time were continually at war. No definite line between their various territories was ever laid down or kept. Each new war altered it, and the territory of the confederated tribes, as I have said, was only a small part of the North Island, and did not include any of the land that Mr. Webster claims, or, if it did include the land he claims, he had not the assent of the chiefs or people to the sale. Whether the English Government by their statements have recognised New Zealand as a sovereign and independent State is a separate question; but I apprehend the State may be recognised as such for some purposes, and not for others. We see this happening in the case of many islands of the Pacific—Samoa, for example. It may be contended that Ministers of Great Britain have stated that New Zealand had been recognised as a sovereign and independent State. I do not think that the doctrine of estoppel could be invoked in such a case as this. In any further inquiries to be made, as to what New Zealand really was, the truth alone must be looked at and not statements of Ministers of the Crown of Great Britain. The doctrine of estoppel, even as between individuals, can only apply where one has acted on the faith of the representations being true. No one can contend that Mr. Webster entered into his land transactions because of any statement made by any Ministers of the Crown of Great Britain. The opinions, therefore, of Lord John Russell and of other English Ministers can really have little to do with the real position that New Zealand occupied before the Treaty of Waitangi in 1840.

2. It is then said that the Treaty of Waitangi, by its very terms, acknowledged the validity of Mr. Webster's titles. The treaty consists of three articles; they are as follows:—

*Article the First.*—The chiefs of the Confederation of the United Tribes of New Zealand, and the separate and independent chiefs who have not become members of the Confederation, cede to Her Majesty the Queen of England, absolutely and without reservation, all the rights and powers of sovereignty which the said Confederation or individual chiefs respectively exercise or possess, or may be supposed to exercise or possess, over their respective territories as the sole sovereigns thereof.

*Article the Second.*—Her Majesty the Queen of England confirms and guarantees to the chiefs and tribes of New Zealand, and to the respective families and individuals thereof, the full, exclusive, and undisturbed possession of their lands and estates, forests, fisheries, and other properties which they may collectively or individually possess, so long as it is their wish and desire to retain the same in their possession; but the chiefs of the united tribes and the individual chiefs yield to Her Majesty the exclusive right of pre-emption over such lands as the proprietors thereof may be disposed to alienate, at such prices as may be agreed upon between the respective proprietors and persons appointed by Her Majesty to treat with them in that behalf.

*Article the Third.*—In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her Royal protection, and imparts to them all the rights and privileges of British subjects.

It will be seen from these articles that there is nothing recognising the titles of those who had purchased land from the Maoris, and this seems to be entirely ignored by the Committee of the Senate.

3. The next point to be noticed is as to the time when the purchases were made by Mr. Webster. Dr. Pollen, in his memorandum dated the 29th July, 1874, stated that towards the close of the year 1839, when it became certain that the sovereignty of New Zealand was to be acquired by Great Britain, Mr. Webster, as did many others, commenced to treat with the Natives for the purchase of land. This is questioned in the first report; but it will be observed that many of Mr. Webster's claims were not purchased until 1839. If the dates of the deeds be looked at it will be seen that Dr. Pollen was right in his memorandum; that many of the deeds from the Maoris were signed immediately before the treaty. Several of them are dated 1839; some as late as the 31st December, 1839. For example the following claims are 1839: 305B, 305C, 305H, 305J, 305K, 305L. Of the claims lodged: there were none in 1835, one in 1836, two in 1837, and the rest were in 1838 and 1839.

4. The next point that will have to be considered is that, though Mr. Webster got these lands from the Maoris, he was actually received into one of