



The New Zealand Gazette.

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WEDNESDAY, JULY 27, 1859.

AT THE GOVERNMENT HOUSE AT AUCKLAND,
THE 21ST DAY OF JULY, 1859.

PRESENT:—

His Excellency the Governor.
Col. Gold, | Mr. Tancred.
Mr. Richmond, |

WHEREAS by the "Native Circuits Courts Act, 1858," it is enacted that it shall be lawful for the Governor in Council from time to time to appoint Districts for the purposes of the said Act, being districts over which the Native Title shall not for the time being have been extinguished, and any such appointment to vary or revoke;

Now therefore, His Excellency the Governor, by and with the advice and consent of His Executive Council, doth hereby appoint and declare, that the territory hereafter described or referred to shall be a District for the purpose of the said Act, to be called The Native District of Mongonui, that is to say, All such portion of the Colony as is situated to the Northward of a line commencing at the North Head of False Hokianga, or Herekino, running thence in a straight line to the summit of Maungatawhiri, and thence in a straight line to the South head of Wangaroa Harbour, exclusive of lands over which the Native Title has been extinguished within the meaning of the said "Native Circuit Courts' Act, 1858."

F. G. STEWARD.

AT THE GOVERNMENT HOUSE, AT AUCKLAND,
THE 21ST DAY OF JULY, 1859.

Present:—

His Excellency the Governor.
Col. Gold, | Mr. Tancred.
Mr. Richmond, |

WHEREAS by the "Native Districts Regulation Act, 1858," it is enacted

that it shall be lawful for the Governor in Council from time to time to appoint Districts for the purposes of the said Act, being districts over which the Native Title shall not for the time being have been extinguished, and any such appointment to vary or revoke;

Now therefore, His Excellency the Governor, by and with the advice and consent of His Executive Council, doth hereby appoint and declare that the territory hereafter described or referred to shall be a District for the purposes of the said Act to be called The Native District of Mongonui, that is to say, All such portion of the Colony as is situated to the Northward of a line commencing at the North Head of False Hokianga or Herekino, running thence in a straight line to the summit of Maungatawhiri, and thence in a straight line to the South Head of Wangaroa harbour, exclusive of lands over which the Native Title has been extinguished within the meaning of the said "Native Districts Regulation Act, 1858," and doth declare that this order shall take effect on the 19th day of August next.

F. G. STEWARD.

Colonial Secretary's Office,
Auckland, 27th July, 1859.

THE following Acts passed by the General Assembly of New Zealand, in the Session held in the twenty-first and twenty-second years of the Reign of Her Majesty Queen Victoria, intituled—

No. 41.—An Act to regulate the Local Affairs of Native Districts.

No. 42.—An Act to make better provision for the Administration of Justice in Native Districts,

having been laid before the Queen, in conformity with the provisions of the Constitution

Act, Her Majesty has been graciously pleased to leave the same to their operation.

HENRY JOHN TANCRED,
For the Colonial Secretary.

Colonial Secretary's Office,
Auckland, 27th July, 1859.

THE following Act passed by the General Assembly of New Zealand, in the Session held in the twenty-first and twenty-second years of the Reign of Her Majesty Queen Victoria, intitled—

No. 80—An Act to enable the Native Tribes of New Zealand to have their Territorial Rights ascertained, and to authorize the issue in certain cases of Crown Grants to Natives, which Act was reserved for the signification of Her Majesty's pleasure thereon, having been laid before the Queen in conformity with the provisions of the Constitution Act, Her Majesty has been pleased to withhold Her assent to the same.

HENRY JOHN TANCRED,
(For the Colonial Secretary.)

Colonial Secretary's Office,
Auckland, July 31, 1859.

HIS Excellency the Governor directs the publication of the following Despatch from Her Majesty's Principal Secretary of State for the Colonies for general information.

H. J. TANCRED,
For the Colonial Secretary.

Downing-street,
18th May, 1859.

SIR—I have received your Despatches named in the margin, which transmit for the consideration of Her Majesty the following Acts, passed by the Legislature of New Zealand:—

No. 41—"An Act to regulate the Local Affairs of Native Districts."

No. 42—"An Act to make better provision for the Administration of Justice in Native Districts."

No. 79—"An Act to enable the Governor to establish a Settlement for Colonization in the Bay of Islands."

No. 80—"An Act to enable the Native Tribes in New Zealand to have their Territorial Rights ascertained, and to authorise the issue, in certain cases, of Crown Grants to the Natives."

I wish, in the first place, to acknowledge the care, ability, and sound judgment with which these Bills appear in most respects to have been adapted to the character and circumstances of the Native Tribes; and if I am unable in some respects to give effect to the policy of your advisers, I wish them to believe that this does not arise from any want of reliance on their desire to advance the well-being of the Natives, nor of their capacity to deal with the important and delicate questions on which that well-being depends, but from my conviction that circumstances do not yet justify

the Imperial Government in abdicating the responsibilities which at present rest on it with regard to that remarkable race.

The Act No. 41 appears to me on the whole wisely framed and to bear great promise of usefulness. The second clause however is open to an objection on the grounds which I have already indicated. It not only invests the Governor in Council with the virtual power of making laws affecting in many most important respects the rights and habits of the Natives, (a power which I readily concede on the understanding that the Governor will exercise a personal discretion in consenting to them) but it omits to secure to the Crown its customary right of disallowance. If however that right is indispensable with regard to laws which are passed by the Representatives of the colonists for the furtherance and protection of their own interests, much more is it necessary in regard to regulations enacted by the Governor and Council for people whom they cannot in any sense be said to represent. I have felt much doubt whether I could properly advise Her Majesty to leave to its operation a law which was open to so important an objection. But believing that the Act is on the whole in the direction of a wise and useful legislation and that the Legislature of New Zealand will see the justice of the view which I have stated upon this single point of objection, I have been reluctant, by a disallowance *in toto* of the Act, to entail the public inconvenience which might occur, and the long delay which must necessarily elapse, before legislative provision could be again made to meet the objects in view.

I have therefore laid the Act before Her Majesty, who has been pleased to leave it to its operation. Unless, however, the Legislature should consent to amend it by enacting that all regulations made in pursuance of the second clause shall be subject to disallowance by Her Majesty, it may be necessary to consider under what conditions your assent could be properly given to them, and it may be necessary to require, previous to such consent, that any rules which could by possibility give occasion for dispute or discontent among the Natives should contain a proviso either suspending their operation till the consent of the Home Government is obtained, or (which would probably be more convenient) expressly empowering the Crown to disallow them.

To the Acts numbered 42 and 79, I see no objection. The former has therefore been left to its operation by Her Majesty, and the latter (which is reserved for the signification of Her Majesty's pleasure) will be confirmed by order in Council.

I much regret that I have not been able to advise the same course respecting the Act No. 80, which appears to me open to various important objections. In the first place the proposed issue of Certificates of Native Title under the express authority of the Colonial Government involves important questions which are not adverted to in your Despatch. It is no doubt most desirable that the

disputes of the Natives respecting the right to land should no longer be settled by arms, and that the occupation of land in severalty by the Natives should be encouraged. But with regard to the plan which is submitted to me for this purpose, I am bound to ask myself whether in case the decisions of the Governor in Council on titles to land should be resisted by the Natives, the British Government are prepared to promise such a military force as may be sufficient to enforce them. If any such expectation could be held out, it would be clearly necessary that the decisions which imposed so much responsibility and expense on the Home Government should be taken by an officer solely responsible to that Government and not to the Colonists. If (as is the case) no such expectation could be held out, it is more than questionable whether the moral influence of the European Government would not suffer, by the issue of Certificates of title which the Natives would be at liberty to disregard with impunity.

It appears to me therefore in every respect better that the establishment of tribal and other titles, and the acquisition by individual natives of property in severalty should be facilitated, not by the issue of formal documents appearing to rest on the authority and involve the guarantee of the Government but by the cautious enactment of rules respecting the occupation of land which are contemplated in the second section of the Act No. 41.

I perceive, however, that the proposed scheme has a further object, and that it is intended to furnish a means of ultimately enabling individual colonists to purchase the landed property granted in severalty to individual Natives. There can be no doubt that the passing of the present Act would be very speedily followed by a change or rather revolution in the system of land purchase in the direction indicated by your advisers. But such a change I conceive to be in the highest degree inadvisable. The present system of land purchase appears, as far as I can judge, to be understood and acquiesced in by the Natives, and to be working well for the Colony, while the pecuniary difficulty suggested by your advisers is one which it is in the power of the local legislature to provide against.

On the other hand, the system of individual purchase is, to say the least, opposed to the spirit of the New Zealand Government Act (15 & 16 Vic. C. 72, S. 73), and it is open to important objections in point of policy; it offers no sufficient guarantee for the fairness of the negotiations which have preceded the transfer; it invests the Government with a discretion in respect of sanctioning purchases which can scarcely be exercised without incurring the suspicion of favouritism—it will encourage speculators to anticipate (and thus obstruct) the progress of settlement by appropriating choice and commanding spots of land within the Native territory, and induce an intermixture of European with Native lands calculated to cause confusion and incon-

venience. I hold it therefore far more advisable that Government should purchase territories, than that individuals should purchase properties, so that the line which separates the purchased lands on which European law is to prevail, from the unpurchased on which the Native usages will continue to subsist, though always advancing, will be broad and unequivocal.

I also feel strongly the probability that the proposed tax of 10s an acre on every sale may rouse the distrust of the Natives, and that the proposed mode of sale while it encourages individual land jobbing among one class of the Natives, may irritate others who see the lands which have belonged to their tribe passing from within their reach without themselves receiving their share of the profits.

If indeed the Imperial Government were prepared to depart from the arrangements already sanctioned, and to transfer the management of Native affairs from the Governor, acting under instructions from this country and through a Staff of permanent officers to an officer responsible to the Colonists, and changing with the Government, it might be considered that the system of land purchase from the Natives was to be decided upon by Colonial and not Imperial authority. But this view of the subject I am not able to accept; Her Majesty's Government wish to give the fullest effect to the system of Responsible Government, and to leave all questions of domestic and internal interest to be decided by the Colonial Government, but they cannot either for the sake of the Colonists or for that of the Natives or for Imperial interests surrender the control over Native affairs, the administration of which has been up to the present time, considering the difficulties and intricacies of the subject, crowned with a very remarkable success and is paving the way towards that complete civilization and consolidation of the Native race, with the English Colonists which Her Majesty's Government not less than the local Government desire to see effected. And whilst Her Majesty's Government feel themselves constrained to justify to Parliament the large expense which every year is incurred for the maintenance of a Military force in New Zealand for the defence of the Colony, and for the better control and regulation of the Native race, they must retain in their hands the administration of those affairs which at any moment may involve the employment of those troops and the consequences of an expensive conflict. So long as the Colony for this purpose enjoys the advantage of Military and Naval protection, Her Majesty's Government cannot consent to yield a point which in their opinion is so intimately connected with the security of the Colony, the justice due to Native claims, and the issues of Peace or War itself.

Convinced, therefore, that the proposed Act is calculated to effect hazardous alterations in a system, the working of which does not at present appear open to any practical objection, I have been unable to recommend that this Act

should be confirmed by Her Majesty, and it will accordingly remain inoperative.

I have, &c.,

(Signed) CARNARVON,
In the absence of Sir E. B. Lytton.

Attorney-General's Office,
Auckland, 26th July, 1859.

HIS Excellency the Governor has been pleased to appoint

ROBERT HART, Esquire,
to be Judge of the District Court of Wellington.

FRED. WHITAKER.

Attorney-General's Office,
Auckland, 26th July, 1859.

HIS Excellency the Governor has been pleased to appoint

Mr. JOHN SHAKESPEAR DIXON
to be the Clerk of the District Court of Wellington.

FRED. WHITAKER.

Attorney-General's Office,
Auckland, 26th July, 1859.

HIS Excellency the Governor has been pleased to appoint

ROBERT HART, Esquire,

to be Judge of the District Court of Hawke's Bay.

FRED. WHITAKER.

Attorney-General's Office,
Auckland, 26th July, 1859.

HIS Excellency the Governor has been pleased to appoint

ROBERT HART, Esquire,
to be Judge of the District Court of Wanganui.

FRED. WHITAKER.

Attorney-General's Office,
Auckland, 26th July, 1859.

HIS Excellency the Governor has been pleased to appoint

WILLIAM THOMAS LOCKE TRAVERS, Esquire,
to be Judge of the District Court of Nelson.

FRED. WHITAKER.

Attorney-General's Office,
Auckland, 26th July, 1859.

HIS Excellency the Governor has been pleased to appoint

Mr. JOHN SHARP
to be the Clerk of the District Court of Nelson.

FRED. WHITAKER.

THOMAS OUTHWAITE, ESQUIRE, RECEIVER OF INTESTATE ESTATES for the Northern Division of the Colony of New Zealand, in account with the ESTATE of ELIZABETH WEBBER, deceased intestate.

	£	s.	d.		£	s.	d.
1858.				1858.			
Nov. 27th, By cash from W. Dyer, Balance in his hands	7	17	3	Dec. 6th, Paid Supreme Court Letters of Administration	3	0	0
1859.				1859.			
Feb. 7th, " " sale of Effects	3	17	6	" Dr. McGauran Provincial Hospital fees	7	16	0
" " From Savings Bank to Credit of deceased	64	0	1	" Advertising Notice to Creditors	0	4	6
				" Advertising Balance Sheet	0	7	6
				" Administrator's Commission	1	19	3
				Balance	62	7	1
	£75	14	10		£75	14	10

I, THOMAS OUTHWAITE, do swear that to the best of my knowledge and belief the above is a just and true account of the Receipts and Disbursements on account of the above Estate of Elizabeth Webber.

Sworn at Auckland, this eleventh day of July, One }
thousand eight hundred and fifty-nine, before me, }

GEORGE ALFRED ARNEY, C. J.

THOMAS OUTHWAITE.

I do hereby certify that I have examined, and allowed this account of the Official Administrator of the above Estate. Dated the eleventh day of July, 1859.

GEORGE ALFRED ARNEY,
Chief Justice.