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The Case of the War in New Zealand

Edward Harold Browne

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THE CASE OF THE WAR IN NEW ZEALAND.

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From Authentic Documents.

BY

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[PREFACE]

PREFACE.

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IT is to be feared that the war in New Zealand will become matter of more general interest than at present, for bush-warfare is ever full of difficulties. Many then will ask how it arose. My own near relationship to the Governor has given me peculiar interest in this question. I have therefore read numerous documents, through which the general reader will not wade, and in the following pages have endeavoured to give a summary of their contents.

Though I have ever had the fullest confidence in the judgment, integrity, and humanity of my brother, the severity of the censures on his conduct, and the quarter from whence they proceeded, puzzled me as to his judgment in the present case, until I had read the documents laid before the Colonial Parliament and the long debates in both houses. By them I was fully re-assured; and I have only endeavoured in the following pages to lay before the reader, fairly and impartially, the evidence which has thus satisfied myself. Of course, I rejoice in believing that it will vindicate the conduct and character of a beloved and honoured relative. My own course of life, that either of the pastor of large parishes or of a Professor of Divinity, has led me scrupulously to avoid party, whether political or theological. I trust

that I am not now departing from that general principle. The questions here are no party questions, but questions of truth, honesty and humanity. It is a matter of deep concern to me, that I am forced to express strong difference from one, whom of all men living I have honoured most for his unparalleled missionary labours, I mean Archdeacon Hadfield. There are passages in his conduct as regards the present disturbances which I cannot construe, and which I long to see cleared up. I can but strive to be satisfied with the knowledge, that burning zeal in imperfect beings will at times degenerate into intemperance, and that then it will blind its owner to principles and even to facts, which under other circumstances could not be overlooked.

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I will only add, that the following pages are not derived from any private information, but entirely from published documents; that they do not, in any sense of the word, emanate from my brother, but that I alone am responsible for them. My brother simply sent me the documents, in order to convince me and other members of our family that he had acted honestly and rightly.

Section I. History of Events.

THE CASE

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OF THE

WAR IN NEW ZEALAND.

SECTION I. – History of Events.

THE quarrel now unhappily existing between the Government and some of the natives originated in a dispute concerning the sale of about 600 acres of land. The land in question is part of a territory known as the Taranaki territory. It lies immediately south of the river Waitara. On a portion of the Taranaki territory, purchased from the natives by Governor Fitzroy, stands the town of New Plymouth.

The whole of this country was inhabited by a tribe called Ngatiawa. It appears that, whilst some portion of this tribe was absent from home, the more powerful tribe of Waikato invaded their territory, drove some of them out, took captive others, reducing them to slavery, and by the terror of their arms prevented the absentees from returning. This occurred A.D. 1834. A few of the conquered tribe had fled to the mountains, and then to the number of from 40 to 60 returned, as their invaders retired, and again partially occupied their original settlements. In the year 1839 Col. Wakefield purchased from this scattered remnant of the tribe a block of 60,000 acres, including the land now under dispute, for the New

Zealand Company.¹ In negotiating for this land Col. Wakefield went to Queen Charlotte's Sound, where some of the Ngatiawa tribe were living, unable from fear of the Waikatos to return. Here he negotiated with some of their chiefs. Notice also was given of the sale to those at Port Nicholson, and their claims were satisfied.² But what is much to be observed is, that a certain chief then called Witi, but now known as Wiremu Kingi (or William King), accompanied Col. Wakefield to Queen Charlotte's Sound. Moreover, he signed the deed of general cession, known as the Queen Charlotte Sound deed, which comprises all the New Plymouth district. He signed for himself and his father at the very head of the list.³ On the strength of this bargain, English settlers came and took possession of the land. But all claims had not been satisfied. The Waikatos asserted a superior or paramount claim to the Taranaki land by right of compact. They asserted, that the returned remnant of the Ngatiawas were merely slaves, living at Taranaki only by sufferance, and that they had no right whatever to sell their land without the consent of the chief of the Waikatos. That chief himself (Te Whero-where), in illustration of his argument, put a heavy ruler on some light papers, saying, "Now so long as I keep this weight here, the papers remain quiet, but if I remove it the wind immediately blows them away; so it

is with the people of Taranaki;"⁴ by which he meant to express that he had mana, or superior, paramount, authority over the people of Taranaki. This mana, or superior authority of the Waikatos, was universally admitted by the natives at the time of the conquest. "Many acts of ownership over the soil had been exercised by them. The land was divided among the conquering chiefs; the usual customs of putting up flags and posts, to mark the boundaries of the portions claimed by each chief, had been gone through. The Waikatos' right was thus established as a right of conquest, and was fully admitted by the Ngatiawa themselves, who, on each occasion, when they sold a portion of the land at Taranaki, sent a part of the payment to Waikato, as an acknowledgment of conquest or of the right of mana possessed by the Waikato chiefs as their conquerors."⁵ This claim then of mana, made by the Waikatos, it became necessary to satisfy. Accordingly, in 1842, a new sale was effected, the Waikatos selling all their rights in the Taranaki lands to Mr Clarke, Protector of the Natives, "for Her Majesty Victoria, Queen of England, her heirs and successors, whether male or female." The deed is signed by the two great Waikato chiefs, Te Kati and Te Whero-where.⁶

Peaceable possession of the land being thus obtained, European settlers went to Taranaki; the country was opened up by roads; farms were established; and the Europeans formed a tolerable safeguard against the Waikato tribes. At this time portions of the Ngatiawa tribe, who had been released from slavery, as well as those inhabiting Port Nicholson and Cook's Straits, feeling reassured by the presence of the Europeans, and regarding them as

a protection against their ancient enemies, gradually returned to Taranaki, and soon finding themselves numerically superior to the Europeans, began to claim the whole district and to turn the Europeans off their farms.⁷ Mr Spain, who had been sent out as chief Commissioner, with authority from her Majesty "to investigate and determine titles and claims to land in New Zealand,"⁸ was now appealed to, and after a very careful investigation, gave a most luminous judgment, declaring the purchase to have been legally made, determining also, that, as those natives who had left Taranaki and settled in Port Nicholson had been permitted to hold their possessions in Port Nicholson, their claim to the Taranaki district also could not be admitted, and with certain reservations assigning the purchased lands to the New Zealand Company.⁹ This award of Mr Spain, Governor Fitzroy refused to confirm.¹⁰ But Mr Spain, claiming plenary authority from the home-government, denied Governor Fitzroy's power to reverse his decision, and again with full legal solemnity repeated his judgment.¹¹

This was in 1845. In 1846 Mr Gladstone, then Secretary for the Colonies, writes to the new Governor Sir Geo. Grey. His words are these: "I cannot but express my great surprize and regret at not having been placed by Capt. Fitzroy in possession of a full report of the course which he pursued in this case, and of his reasons for that course. I, however, indulge the hope that you may have found yourself in condition to give effect to the award of Mr Spain in the case of the Company's claim at New Plymouth, and in any case I rely on your endeavours to gain that end so far as you may have found it practicable, unless indeed, which I can hardly think probable, you may have seen reason to believe that the

reversal of the Commissioner's judgment was a wise and just measure."¹²

Sir Geo. Grey in the following year admits the justice of Mr Spain's award, says he has enforced Mr Spain's decisions in all cases against the New Zealand Company, and it remains to be considered whether they are not entitled to the benefit of this decision in their favour;¹³ and gives instructions to Mr McLean, the Commissioner who appears to have succeeded Mr Spain, to the effect that "every effort should be made to acquire for the European population those tracts of land which were awarded to the New Zealand Company by Mr Spain; that, if possible, the total amount of land resumed for the Europeans should be from 60,000 to 70,000 acres;" that "those natives who refuse to assent to this arrangement must distinctly understand that the Government do not admit that they are the true owners of the land they have recently thought fit to occupy."¹⁴

For some reason or other, probably from difficulty of enforcing it, this decision of Sir Geo. Grey's was never acted upon. On the contrary, the Governor thought fit to acquiesce in the assertion of proprietary rights by the ancient occupants: and the precedent thus set has not been departed from by the present Governor, Col. Browne.

It is to be observed that William King, who had been active in 1839 in assisting Col. Wakefield in his purchases, and who signed his name to the deed of cession to the New Zealand Company, was also very active in 1847, in behalf of those Ngatiawas who were resident in Port Nicholson, and in desiring to be negotiated with about the Taranaki lands.¹⁵ In 1848, finding the claim of the New Zealand Company not supported

by the Governor, he deserts his pa and cultivations at Port Nicholson, and prepares to return to Taranaki. Sir George Grey, however, positively forbids him to settle on the South of the river Waitara, the territory which had been sold to the Company. But King, having obtained leave of Raru, Teira's father, to build his pa on the south side of the river, and on Raru's cultivations, disregards the Governor's prohibitions, and, it is asserted, that he now pretends to claim Waitara, at least a kind of mana or seigniorial authority there, in virtue of a species of conquest achieved by his defiant return.¹⁶

From that time to this the disputed territory has been the scene of strife and bloodshed. One party of natives has been anxious to sell their lands, another as anxious to prevent the sale. Native title is of all things in the world the most complicated. When one man or set of men offer their lands for sale, others are sure to rise up and deny their power to alienate. In 1854, just as Sir George Grey had left the Colony and before the arrival of a new Governor, a murder was committed, because one man¹⁷ proposed to sell land in which the other claimed a share, and in 1858 vengeance was taken by the friends of the murdered man.¹⁸ In 1859 a temporary cessation of hostilities took place, but Dr Thompson, in his well-known work on New Zealand, observes, "The feud, however, is not settled, the cessation of hostilities is more an armistice than a peace, and its permanence

will only be secured by the Governor purchasing the disputed lands."¹⁹

The Governor took the view expressed in these words of Dr Thompson, and his responsible ministers entirely coincided with him in opinion.²⁰ The peace of this once promising portion of the Colony seemed only to be attainable by an equitable purchase of lands from those who were willing to sell. With this principle in 1859 view Col. Browne, accompanied by the minister for native affairs, Mr Richmond, and Mr McLean the chief Commissioner, went in March 1859 to Taranaki, and in an assembly of the natives made a declaration, that he would purchase for a fair price from any one willing to sell, who could make out an undoubted title to his land; that he would buy from no one whose title was not clear, but that he would permit no one to prevent the sale of land by those to whom it undoubtedly belonged. Thereupon a native named Te Teira,²¹ rose

and declared that there was a block of land of 600 acres belonging to him, and that he was prepared to sell it. After some discussion about the sale of another block, which was afterwards withdrawn, Teira said to the Governor, "Will you consent to buy my land?" The Governor replied, "If the land is yours, I consent to buy it." Upon this Teira laid down a mat at the Governor's feet, as a token that the land had departed from him. Seeing that there was no interruption, some natives present said "Waitara is gone." Then, William King arose and said, "Waitara is in my hand, I will never let it go. Governor, there is no land for you." Thereupon he waved his hand, and with his followers abruptly left the assembly.²²

The next step in this matter was a direction of the Governor to Mr McLean, the chief Land Commissioner, to investigate carefully Teira's title to the land. Nine months were occupied in the enquiry, every available proof was had recourse to. A public invitation was given to any one who had claims to any portion of the block, requesting that such claims should be stated, and promising that they should be respected.²³ It is given in evidence by the chief Land Commissioner before the Legislative Assembly, that no such claim was ever asserted, except the general claim of an anti-land-selling league (of which more hereafter), which grasped at the mana over the whole of the extensive territory Waitara and Mokau, although this same land had been ceded to the Government.²⁴

Nine months then were spent by the chief Commissioner, Mr McLean, aided by the district Commissioner, Mr Parris, in investigating the title. At the end of this period, they reported to the Governor, that the title of Teira and his associates was clear, and the claim of William King untenable. Accordingly, the Governor desired the land to be surveyed and the purchase to be effected. Still, because it was possible that some claimant might not yet have come forward, after the first payment a notice was inserted in the receipt, in the Maori tongue, to the following purport: "The Governor says, that, if any man bring forward a just claim to any portion of the land included within the boundaries written in the deed, and is not willing that his portion or division should be sold, such portion will be marked off, and he will be allowed to retain it."²⁵ This was read over in the presence of W. King, Nov. 29, 1859.²⁶ No definite claim, however, was preferred at this or at any other time.²⁷

Mr Parris, the district Land Commissioner, having been instructed to proceed with the survey of the land, appointed Feb. 20, 1860, for the commencement, and informed W. King accordingly. On arriving on the ground, with a surveyor, two chain-men, and a native, Hemi Potaka, one of the sellers, he was met by a party of seventy or eighty of King's friends waiting for him. The surveying instruments having been placed on the ground were seized and a struggle ensued, in which Hemi Potaka struck one of the opposing party down. Mr Parris then exerted himself to stop any further collision, and drew off his party. Shortly after the Governor arrived at Taranaki, and sent a message by Mr Parris, Mr Whitely (a Wesleyan Missionary), and Mr Rogan, to W. King to the following purport:

1st March, 1860.

"I hereby pledge my word that W. King, and any reasonable number of his followers, who may choose to

come to New Plymouth unarmed and converse with me, shall be allowed to return unharmed and in freedom, to the place from whence they came.

"This promise shall be good from this day till the night of the third of March, 1860.

(Signed,) "T. GORE BROWNE."

William King refused to comply with the Governor's request, and from that time remained away in the bush, having decided on hostilities against the Government.²⁸ The interruption of the survey above related was now considered as a formal act of defiance, and on March 4, troops were ordered to be present, not to act against King, but to support the civil authorities in case of aggression. The Governor, moreover, gave Col. Murray, the officer in command, power in case of need to proclaim martial law in the district; this being a measure of precaution, rather intended to restrain (if necessary) the Europeans, than directed against the natives.²⁹ Actual force was not resorted to, until a fighting-party of King's people had erected a pa, and danced their war-dance on the disputed ground, and had

contemptuously rejected a summons from the commanding officer to evacuate the pa.³⁰ Even after hostilities had begun, and Col. Gold, the commander of the forces, had been sent to the scene of the disturbances, the Governor desired him not to act at first on the aggressive, not to cross the Waitara and

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attack King, but if King attacked the Queen's troops, then to chastise him severely. No other restraint was imposed.

In the month of August 1860 the General Assembly met at Auckland; and at the same time the Governor invited the Maori chiefs to meet in Council, and discuss the merits of the war. In the General Assembly the opposition naturally attacked the responsible ministry for the advice offered by them to the Governor, which led to, or at least confirmed, the course, which the Governor had pursued. Very long and animated debates were carried on in both houses. In the House of Representatives, it was admitted, even by the opposition, that war, if it had not broken out at once, must have broken out ere long, owing to the disturbed state of the native mind, but it was regretted that the cause of war should have been a quarrel about land.³¹ On a division there appeared 19 votes to 4 in affirmation of the proposition that the war on the part of the Government was just and inevitable.³²

In the legislative Council, a body consisting of members unconnected with the Government and appointed for life by the Crown, after the strongest testimony on the part of the Chief Justice and the Attorney-General (the two principal law-officers of the Colony) to the justice and moderation of the Governor's policy,³³ the house divided, 11 to 4, in favour of the Address, which affirmed the same principle as the motion in the House of Representatives.

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In the Assembly of Maori chiefs, gathered from all parts of the Island, after the principal Land Commissioner had made a statement, the chiefs debated the questions among themselves. At the conclusion, a series of propositions were moved and seconded by different chiefs, and carried by a majority of 107 to 3, the dissentient 3 being relations of W. King. The most important were; "That this Conference having heard explained the circumstances which led to the war at Taranaki, is of opinion that the Governor was justified in the course taken by him; that Wiremu Kingi provoked the quarrel, and that the proceedings of the latter are wholly indefensible." – "That this Conference deprecates in the strongest manner the murders of unarmed Europeans committed by the natives now fighting at Taranaki."³⁴ – "That the Conference desires to thank his Excellency the Governor for his goodness to the Maori people, that is, for his constant kindness and love to them; and also for granting them this great boon, the Runanga (Parliament or Conference), whereby they are enabled to express their views, and to propose measures for the settlement of the difficulties which arise among the native people." – "That this Conference desires to thank their friend Mr McLean for his great exertions on their behalf, and for his kindness to the natives of this Island of New Zealand."³⁵

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The above contains a simple statement of historical events. They cannot be denied, and, in great measure, speak for themselves. They, at all events, acquit the Governor, and those who counselled him, of intemperate haste and wanton injustice. Had King yielded, instead of resisting, or had his resistance been feeble and our troops successful from the first, we should probably have heard but little in the Houses of Assembly concerning the equity and wisdom of the proceedings of government. The fact, that King's party was thoroughly organized, that there had been for some time preparations for a struggle with Government, that therefore we have a war and not a mere tumult, the fact too, that our own troops, always at disadvantage in bush-warfare, have suffered serious reverses, these have brought the conduct of the Governor, at first unboundedly popular, into doubt and debate.³⁶

¹ Papers on the Taranaki Land Question, presented to both Houses of the General Assembly. E, No. 2. Nos. 1, 2, 3.

² Ibid. No. 7, pp. 6, 7.

³ Ibid. No. 2, p. 3. See also Mr Richmond's Speech in the House of Representatives, Aug. 3, 1860, New Zealander, Aug. 8, 1860, p. 5, col. 4. Also Mr Gillies' Speech, lb. p. 6, who asserts, without contradiction, that the disputed block of land is within the boundaries assigned by the deed, to which King or Witi put his signature Mr McLean asserts that, though some of the natives may not have fully understood these transactions, King, who was more intelligent than the rest, and took an active part in the whole concern, understood it well. Evidence before the House, Paper e, No. 4, p. 16.

⁴ Despatch of Governor Hobson to the Secretary of State, 13 Dec 1841. Papers as above, E, No. 2, p. 5.

⁵ Evidence of Mr Commissioner M'Lean. Further papers, E, No. 4, p. 5.

⁶ Papers, &c. E, No. 2, p. 5, No. 6.

⁷ Despatch of Sir George Grey, Papers, &c. E, No. 2, p. 21.

⁸ lb. p. 17.

⁹ lb. Nos. 7, 8, pp. 6 to 9.

¹⁰ lb. p. 12.

¹¹ lb. No. 14, p. 11.

¹² lb. No. 15, p. 20.

¹³ lb. Nos. 16, 17, pp. 21, 22.

¹⁴ lb. No. 18, p. 22. Sir G. Grey desired that the price paid for the land should be only that of waste land, eighteen pence an acre.

¹⁵ lb. No. 19, p. 23.

¹⁶ Memorandum by Mr Richmond, Minister for the Native Department. E, No. 1, 13, p. 2.

¹⁷ lb. pp. 26 to 30.

¹⁸ Rawari was the name of the first murdered man, Katatore of the second. The Government of New Zealand has been continually endeavouring to induce the natives to put themselves under English law; but to enforce English law in the purely native settlements would be impossible without a much larger body of military. One reason why the Home Government has declined to constitute tribunals for native causes has been this want of power to enforce decisions.

¹⁹ Story of New Zealand, by A. S. Thompson, M.D. Vol. II. p. 259. Mr Dillon Bell says, "For five years these Ngatiawa chiefs had been slaying each other in disputes about their titles to land, till the blood of murdered men cried to Heaven against the rulers who continued to permit such crimes. The Queen's sovereignty was sunk beneath contempt. The punishment of death was

pronounced against any chief who should dare to sell his own land. It was inflicted with merciless ferocity in the shining light of day. A league of minor chiefs of a conquered and broken tribe claimed to usurp the authority of law, and substituted for English rule a Maori reign of terror. This Wiremu Kingi held up as a model of Christian virtue, at one time threatened (I refer to a public and official statement which has never, so far as I know, been contradicted) to exterminate every man, woman, and child, in a pa he was besieging... I ask you, which of you will be rash enough to say, that the Governor was not justified in trying to put an end to such fearful evils." Debate, Aug. 16, 1860, New Zealander, Aug. 22, 1860. I have referred to the New Zealander, because it gives the debates more fully than any other paper. The Southern Cross gives in extenso only the speeches on the opposition side.

[20](#) Papers, E, 1, B, p. 4.

[21](#) Teira appears to be simply the Maori pronunciation of the surname Taylor, as Wiremu Kingi is of William King, the natives, since the introduction of Christianity having adopted English surnames as well as Christian names.

[22](#) Papers, E, No. 1, B, p. 2; E, No. 3, H, p. 2.

[23](#) E, No. 4, p.17. It is dated March 18, 1859.

[24](#) Ibid.

[25](#) Ib. p. 19.

[26](#) E, No. 3, A, p. 3.

[27](#) Ib p. 4.

[28](#) E, No. 3, A, p. 4.

[29](#) It has been complained that the Proclamation of Martial Law was so badly translated into Maori, as to appear to the natives as a declaration of war against them. This, if true, was most unfortunate; but it has been replied, that, whatever effect it may have had on other natives, King was too well informed for it to have so affected him. He had on a former occasion been living in a district where martial law was proclaimed, and fully understood its meaning.

[30](#) E, No. 3, A, p. 4.

[31](#) Speech of Mr Forsaith; New Zealander, Aug. 8, p. 7, col. 4.

[32](#) The words of the motion were: "That in the opinion of this House the interests of both races of Her Majesty's subjects in New Zealand and the due maintenance of the treaty of Waitangi rendered it the imperative duty of His Excellency the Governor to repel the forcible interference of Wiremu Kingi with the sale of the Waitara Block; and that the vigorous prosecution of the war and the complete vindication of Her Majesty's authority are objects of paramount importance."

[33](#) New Zealander, Sept. 5.

[34](#) Alluding to the murder of two men and three boys, engaged in tending their cattle, by some of W. King's party soon after the first outbreak of the disturbances.

[35](#) New Zealander, Sept. 1, 1860. As the Southern Cross has made some objection to the mode in which the votes were taken, it is well to add, that there appearing some misunderstanding among a few of the aged chiefs, the Resolutions were sent in the evening to the several wards, and were freely discussed among the chiefs without any European being present. On the following morning the chiefs assembled in the Conference-Hall and there publicly expressed their entire approbation of all the resolutions, which were then eagerly signed by 107 of the chiefs, 3 only having expressed any dissent, and that only from the third resolution, which condemns King. This is the statement of an eye-witness, Mr H. T. Clarke, Resident Magistrate, Bay of Plenty. New Zealander, Aug. 22, 1860, pp. 2, 3.

[36](#) See New Zealander, Aug. 15, p. 6, col. 3; also Aug. 22, p. 3, col. 4.

Section II. Principles.

SECTION II. – Principles.

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IT will be necessary now to pass from facts to the consideration of the far more difficult questions concerning principles; and we may enquire,

I. First, Whether the Governor acted rightly in his mode of instituting an enquiry concerning the rights of the respective claimants in this question of property.

II. Secondly, Whether those, to whom he committed the enquiry, decided on legal and equitable grounds.

I. First, it is perfectly clear, that a Governor sent out from this country, whose whole term of office seldom if ever exceeds six years, cannot of his own knowledge be a competent judge of all the intricacies of native customs and rights. The most experienced of the settlers, those best skilled in the Maori traditions, acknowledge that the difficulties are great. It cannot be doubted then that, in order to form a sound judgment on native matters, a Governor needs able counsellors.

The first question then to be considered is this. Did Col. Browne act wisely in taking counsel with his responsible ministers?³⁷ He was placed in a position, in which

none of his predecessors could have been placed. Responsible government was not in existence before. Sir George Grey delayed to introduce it, but left it a legacy to his successor.³⁸ It was not inaugurated till Sir George Grey left the Colony, and it first saw the light under General Wynyard, who acted as provisional Governor during the interval which elapsed between Sir George Grey's departure and Col. Browne's arrival in New Zealand. The question is, no doubt, one of difficulty. The responsible ministers are responsible to the Colonial Parliament. That Parliament represents the settlers, not the natives. The rights of natives may not always be respected by settlers. Accordingly Col. Browne felt it his duty, when first negotiating with his ministers as to their respective powers, whilst yielding the entire management of the affairs of the colonists to the ministers, to reserve to himself, as representing the Home Government, the right of dealing with native affairs. This he did, with some little difficulty as regarded the Colonial Ministers and Parliament, but with full approbation of Her Majesty's Ministers in England, for the sake of protecting the natives from encroachments on the part of the colonists.

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The position of the ministers then as regards the natives was this. They could not enforce their counsels on the Governor. In Colonial affairs indeed he was bound to take their advice, for they only were responsible to the Colonial Parliament. But in native affairs he was independent of their controul, for he only was responsible to the Government at home. Yet, even in native affairs, the ministers were not only privileged, but bound, to give him their best advice, though he might refuse it if he chose.

Moreover, if war was imminent, and if any part of the burden of war was to be borne by the colony, it became necessary for the Governor to consult the minis-

ters. If they approved the Governor's policy, they would assist him in the expenditure, and go to Parliament for indemnity. But, if they disapproved of his proceedings, of course, both they and the Parliament would refuse to tax the colony for the maintenance of the war.

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But once more, if the Governor did not consult his ministers, he had no one else to consult. Seeing how divided are the interests of the natives, and the colonists, the present Governor, with the concurrence of the Bishop of New Zealand, Sir W. Martin, the late Chief Justice, and Mr Swainson, late Attorney-General, proposed to the Colonial Office, that a special council should be formed, composed of persons of independent position and disinterested character, to advise with the Governor on all matters of native interest. The Duke of Newcastle approved of the proposal, and brought it before Parliament; and it seems much to be regretted, that Parliament should have rejected it. At present, the Governor has no advisers on such questions at all, or he is thrown upon the advice of his responsible ministers, who, as representing the colonists, may not be wholly impartial when the respective interests of colonists and natives are at stake. Still, in the present instance, if the Governor had refused the counsel of his ministers, in a matter of great delicacy and difficulty, with the honour of Her Majesty's Government and the peace of the whole colony at stake, he would surely have incurred the censure of most men, very likely of those very men who now censure him for not acting alone.³⁹

The second question is, Did the Governor do rightly in submitting the question of title to Mr McLean, chief Land Commissioner?

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It has been already seen, in the case of Mr Spain, that the chief Land Commissioner bears her Majesty's commission "to investigate and determine titles and claims to land in New Zealand." All former disputes about the purchase of land had been referred to him. Mr McLean is represented on all sides as a man of singular knowledge and experience in questions of native title and rights. Within the last twenty years he has investigated the title to, and conducted the negotiations for the sale of, from 20,000,000 to 25,000,000 of acres, and in no important respect has the validity of those purchases ever been disputed.⁴⁰ Mr Sewell, an ex-prime minister, states his own conclusion thus: "The claims of the native sellers had been investigated in the usual way, through the proper officers of the Government, and there seemed no ground for impugning their proceedings. They had decided the question of title as was always done in similar cases, and he (Mr Sewell) was satisfied to accept their authority. He dismissed the attempt to cast a slur upon the Commissioners. Something had been said as to the Native Land Purchase Commissioner

not being a competent tribunal to try such a question. All he would say was, that from the earliest period of the Colony tribunals or courts of this nature had been the ordinary modes of investigating and determining questions of the kind. He reminded the House that these officers were distinctly recognized by the statute law of the Colony. The Native Preserves Acts, 1856, treated them as persons authorized finally to hear and determine those cases. As to any supposed jurisdiction of the Supreme Court, that was out of the question. It was clear that the Supreme Court had no jurisdiction over questions of native title."⁴¹

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Surely then, when the Governor had committed the decision of claims to the chief Land Commissioner, when he, with the aid of his deputy Commissioner, had for

eight or nine months patiently investigated the question, when he had decided that the title of Teira and his associates was clear, that King's title was worthless, and that his interference was that of a chief determined to oppose her Majesty's authority as head of the Land-league; surely it must be admitted that the Governor was justified in concluding that King's resistance to the sale was an act of insubordination, not a legitimate defence of his own personal or tribal rights.

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II. When we pass from the consideration of the principles, on which the Governor acted, to that of those on which the Commissioner judged, we at once embark in a most perplexing enquiry. Questions of native title are confessedly difficult; and their difficulty is very greatly increased by the tendency of the European mind to judge on European principles. All notions of property among savages are lax and vague: among Englishmen they are singularly exact. An inexperienced

Englishman is therefore peculiarly unfitted to deal with Maori rights. If, for instance, he learns that individual title, title of an individual proprietor, is seldom, if ever, recognized in New Zealand, he may readily conclude that there is a definite recognition of tribal titles, that the title is vested in a tribe, not in a single owner. If he hears of a chief exercising a power of veto over the sale of lands, he falls back on notions of feudal superiority and seigniorial rights. But the truth is, that such definite principles are principles, which have grown up with our European civilization, and that they do not belong to the peculiarly wild condition of society, in which New Zealand was forty years ago. We shall find this illustrated if we proceed with our enquiry.

We have seen, that Teira offered his land to the Governor, claiming it as belonging to him and to others joined with him in the proposition of sale. We have seen, that Wiremu Kingi declared that he would not

allow Teira to sell. Now there are four distinct claims, on any or all of which he may have grounded his opposition to the sale.

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1. He may have claimed to have a proprietary right to part of the property. 2. He may have asserted a tribal claim, and therefore a right as a chief of the tribe to veto the sale. 3. He may have asserted mana or superior authority, as a paramount chief, and so a right of veto. 4. He may have acted, as a leader of the great Land-league, the object of which is to prohibit all future sale of Maori lands, even by the legitimate and undoubted owners.

1. Did Wiremu Kingi claim a proprietary right in the 600 acres offered for sale, and if so was his claim good?

At the time that Teira first offered his land for sale, the Governor having accepted his offer, conditionally on his making good his title, King did not deny the title, but said, "Governor, there is no land for you; Waitara is in my hands, I will not give it up; I will not, I will not, I will not;" and with an air of defiance withdrew. No one present understood this as a proprietary claim,⁴² but as a threat, that he would use his power as an influential chief to prevent the sale. After this offer of the land for sale, Teira associated with W. King and his people as before. He frequently called them together and entreated them to give up their foolish opposition; assuring them that the small piece of land which he and his supporters had offered to Government was but a fraction of that to which they had claims, and that if they were opposed they should offer more. The opposition endeavoured to gain him over by kind words and acts, but in vain. After an absence of Teira from his home, he found that his

opponents had put some fencing on his land, which he cut down. They thereupon threatened to burn a canoe of his; and he in reply said, that, if they did so, he would burn down all the pas which they had built there, as they very well knew they were on his land. Accordingly the canoe was untouched, and nothing further occurred. In Sept. 1859 Mr Parris, the District Land Commissioner, strove to induce King and his party to meet Teira and discuss their claims. To this King would never consent, and Mr Parris was forced to obtain all the information he could from the neighbours, which entirely corroborated the statements of the selling party. It was stated that the land was occupied by the people of Tamati Raru⁴³ and Rawiri Raupongo (the sellers), before the Ngatiawa migra-

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tion to Port Nicholson, &c; that they had their pas on this land, on the south of the river, whilst W. King and his people lived on the north of the river; but that on returning from Cook's Straits in 1848, King and his people asked permission of Teira and his father to be allowed to build their pas on the south side, as safer than the north in case of an invasion from the Waikato; that, however, none of the land sold by Teira and his party was ever cultivated by King's people.⁴⁴ At length, in November, 1859, after it had been settled that the land should be bought, Mr Parris gave W. King notice of the determination; and he came accordingly with about thirty followers to oppose it. King having been persuaded to meet Teira's party and discuss the question, the following-dialogue took place between Mr Parris and King:

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Q. Does the land belong to Teira and party?

A. Yes, the land is theirs; but I will not let them sell it.

Q. Why will you oppose their selling what is their own?

A. Because I do not wish that the land should be disturbed; though they have floated it, I will not let it go to sea.

Q. Shew me the justice of your opposition.

A. It is enough, Parris. Their bellies are full with the sight of the money you have promised them; but do not you give it to them. If you do, I will not let you take the land, but will take it myself and cultivate it.⁴⁵

It is said by Archdeacon Hadfield and his friends, that when King said, "Yes, the land is theirs," he only meant, according to Maori mode of speech, "It is partly theirs."

No doubt, Maori language, like Maori ideas of property, is vague and indefinite, and it may not be right to press it too strictly.⁴⁶ But at all events, King made no proprietary claim for himself on any of these occasions. He threatened to veto the sale, but never set up a personal claim to the property. He wrote more than one letter to the Governor, but, as will be seen presently, these letters did not exhibit a personal claim, but at most a tribal claim; and one appears distinctly to have been written by King not as a claimant, but as head of the Land-league.

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Archdeacon Hadfield has stated in evidence that a block of 600 acres could not be sold without at least 100

persons having claims,⁴⁷ and that he himself knew of some eighty claimants. The Chief Commissioner, in his evidence, says, "If I were to say that no other claims were adduced, I should be wrong; but I mean no substantial claims, no claims that could be recognised by the Government, or which would be regarded by the natives as valid. Certainly one man told me that his grandfather had once lived a short time on the land, and that therefore he expected compensation; another told me that in one of their fights he was wounded and suffered great inconvenience there, and therefore thought it right that he should have some consideration now that the land was to be sold. By compensating this class of claimants, the real owners would be deprived of what they were fairly entitled to."⁴⁸ Mr McLean goes on to state that, after investigation made at Taranaki and public notice given inviting all claimants to come forward, he himself went over to Queen Charlotte's Sound, where the principal claimants had settled, and after a careful enquiry into rival claims, the whole of the natives there agreed to sell their interest in the land. "I knew," he says, "that these were the real claimants, and I found a great deal of unanimity about the sale of the land."⁴⁹ Mr McLean afterwards went to Wellington, and made similar arrangements there.⁵⁰ After the sale of the land and the beginning of hostilities, in June, 1860, letters were written by a native from Otaki and from other natives at Waikanae denying the validity of Teira's title, and asserting that King had undoubted claims to portions of the 600 acres; and Archdeacon Hadfield gives the highest character for veracity to the writer of the letter from Otaki.⁵¹ These letters, however, do not

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appear to invalidate the statements of the Commissioners, viz. that to their knowledge King never made any proprietary claim to the land.⁵² It deserves too to be carefully remembered, that constant and repeated invitations were given to King and to every other claimant to come forward and state their claims; and that even when the boundaries of the purchased block were marked off, the inland boundary was left uncut, in order that any valid claim might hereafter be substantiated, and that then these lands might be reserved.

2. Tribal Title.

It is, however, on the whole apparent, that both W. King and his supporters ground his claim rather on a tribal than on a personal proprietary right. And this, unhappily, is a question of peculiar obscurity. There can be no doubt but that the Maories generally hold their lands by a common, rather than by an individual title, and that, though individuals have a personal right to their own cultivations, yet they have not in general a right to alienate without the concurrence of their tribe or of a portion of their tribe. Moreover, where any particular chief is the acknowledged head of a body, to, whom the land belongs in common, he would have a right to veto the sale of any portion of such common property.

It seems very much as if King had asserted his rights in this way. His statement at first, that "Waitara was in his hand," may have meant that he was the chief of the tribe, or only that his power and influence (mana) was such that he could prevent its sale. In a letter written to the Governor, April 25, 1859, he says, "Friend, salutation to you. Your letter has reached me about Te Teira's and Ratimana's thoughts. I will not agree to our bedroom being sold (I mean Waitara here), for this bed belongs to the whole of us. Do not you be in haste to give the money. Do you hearken to my word. If you give the money secretly, you will get no land for it. You may insist, but I will never agree to it. Do not suppose that this is nonsense on my part: no, it is true; for it is an old word. I have no new proposal to make either as regards selling or anything else. All I have to say to you, O Governor, is, that none of this land shall be given to you, never, never, not till I die. I have heard it said that I am to be imprisoned because of this land. I am very sorry because of this word. Why is it? You should remember that Maories and Pakehas are living quietly on their pieces of land; and therefore do not you disturb them. Do not say also that there is no one so bad as myself. This is another word to you, O Governor, The land will never, never be given to you, not till I die. Do not be anxious for men's thoughts. This is all I have to say to you. I am your loving friend, William King."⁵³

The words, "I will not agree to our bedroom being sold; for this bed belongs to the whole of us," is the one distinct public assertion of a tribal claim. It is true, that in July 1859 King wrote two letters to Archdeacon Hadfield, in which he more plainly asserted the same; and earnestly besought Mr Hadfield to bring his case before the Governor.⁵⁴ The Archdeacon contented himself

with writing to King, that "his forcible ejection from this land was utterly impossible."⁵⁵ Yet two months later, in Sept. 1859, he writes to the Governor, that all things are quiet in his part of New Zealand, and that he will "not fail to communicate to him anything which he thinks it desirable that he should know."⁵⁶ Again, in December 1859 King wrote a pathetic letter to the Archdeacon, in which the following passage occurs: "They say, that to Te Teira only belongs this piece of land. No! it belongs to us all, to the orphan and the widow belongs that piece of land. If the Governor goes to where you are, you speak a word to him, and if he does not listen, it will be well, for I have often heard of the talk relative to death."⁵⁷ Now here is by far the strongest assertion ever made of a tribal claim. It is King's only distinct denial of Teira's title. There is entreaty that the Governor may be spoken to. Yet none of these letters were ever shewn to the Governor. They were never produced till the meeting of the Houses of Assembly to discuss the equity and policy of the war. They were then put into the hands of the leading opponents to the Government, in order to prove that definite claims had been made by King on behalf of himself and his whole tribe, in order to shew that the Commissioner had decided wrongly when he decided against King, in order to convict the Governor of injustice in not yielding to King's pretensions and giving up the purchase of the ground. Is it wonderful that, whilst in the House of Representatives many condemned the conduct of the Archdeacon, and even charged him with being responsible for all the horrors of the war, not one of his supporters could maintain that he did right?⁵⁸

In considering this question of tribal title, we find ourselves in the midst of a conflict of statements. Archdeacon Hadfield, an unquestionably high authority on native affairs, Mr Forsaith, Dr Featherstone, and those who echo the Archdeacon's opinions in the House of Representatives, say, that lands, whether inherited from ancestors or obtained by conquest, are the property of a tribe, lands actually cultivated by individuals are not absolutely their own, but they are their own as against all individual claimants, not as against the tribe. An

absolute title does not exist: that is, no individual could sell without the consent of the tribe. Moreover, the chief is said to be the representative, protector and guardian of this tribal right; and hence no land can be alienated without the chief's consent. Moreover, the same persons say, that W. King is the undoubted head of the Ngatiawa tribe. Lastly, it is said that Teira was not a chief at all, but a mere tutua, a freeman of the tribe, a simple proprietor.⁵⁹

The extreme simplicity of this statement commends it to our acceptance. But, if all were so clear, and native usage so unquestionable, it is difficult to know how it should happen, that the whole body of the natives, before whom the subject has been fully brought, should not at once conclude for King and against Teira. Yet it is a fact which cannot be doubted, that the natives both of the Ngatiawa and of other tribes are divided in their sentiments. It is stated by a member of the House of Representatives that he attended the great Waikato⁶⁰ meeting in May 1860, where the question was mooted, whether aid should be sent to King or not. Many old chiefs were present, many speeches made, but not one of the speakers ventured to assert that King had, on his own account, any right to interfere to prevent the sale of Teira's land. Doubts were expressed by all who touched the point. William Thompson, the great Kingmaker said, "William King says the land is his, Teira says it is his. Let us find out the owner. Do not make haste, lest we mistake. I do not condemn the Governor, for I am not informed." Another speaker recommended two deputations, one to the Governor, another to King, and said, "If the land be Teira's all will be easy." It

is said by the same member, that all the support received by King from other tribes was given from no belief in his right as regards the land, but because they regarded him as engaged in the Land-league policy.⁶¹ It is also quite certain, that the great meeting of chiefs assembled in conference at Auckland in August last decided by an overwhelming majority against King's claim. All this shakes our faith in the extreme simplicity of the case, as stated by Archdeacon Hadfield and those who side with him.

It seems pretty generally admitted, that two of the highest authorities in native affairs are Archdeacon Hadfield, who has been for twenty-two years a missionary among the Maori, most active and most intelligent, and Mr McLean, the chief Commissioner, who for nearly twenty years has investigated the titles and regulated the conditions of sale in every transaction between natives and Europeans. The former has great knowledge from his general intercourse with the natives. The whole time and attention of the latter has been devoted to the one subject of settling claims to land. He is represented as having special knowledge of titles in Taranaki, from long experience and much intercourse there. It is remarkable how his evidence given before the House directly contradicts Archdeacon Hadfield's in every particular.⁶² On being asked to "describe tribal right in

regard to the transfer of land," he says, "it varies much in different parts of the country. The custom which prevails in one part, does not in another. What is

the general rule? There are very wide exceptions. Is the rule or exception wider? The exception is the wider. When a hapu (i. e. a subdivision of a tribe, or family) alienates, who represents it, and is the consent of all its members necessary? In some tribes the different hapus must be consulted, in others the chiefs; much depends ""on the personal character of the latter. The various hapus or families which compose a tribe most frequently have the right of disposal, but not always; the custom varies. * * * * The natives have no fixed rules, the custom varies in different districts. What are the rules of alienation in the Ngatiawa tribe? In the Ngatiawa a family of three or four people have been regarded as empowered to dispose of its common property."⁶³ Mr McLean, moreover, distinctly asserts that Teira is a chief, not merely a tutua.⁶⁴ He denies King's right as a chief to interfere, ascribing his authority simply to his ambition and turbulence as a land-leaguer.⁶⁵ He says that the land entirely belonged to two hapus of the Ngatiawa, the head of which is not King, but Ropoama, and that Ropoama was altogether consenting to the sale.⁶⁶

Another most important fact elicited from Mr McLean's evidence is that, whereas this present purchase is only one of several, which have been effected in the same neighbourhood, Taranaki, all the preceding purchases have been effected on the same principle as this, viz. that of acquiring the land from the different clans and subdivisions of those clans, which came to offer them.⁶⁷ Never has any similar interference by a chief been recognized in Taranaki, either in favour of King or of any one else.⁶⁸ On former occasions, as in the purchase of the piece of land known as "the Bell Block," King asserted a claim, but did not receive any compensation.⁶⁹ It does not appear that any complaints were made in these former sales.

Once more, it is stated in the same evidence, that various changes in the condition of a tribe cause changes in the native tenure of land. In the case of Taranaki, the original tenure was materially changed by the Waikato conquest; the right of the original proprietors became vested in the conquerors. This right, however, the Waikato title, had been extinguished, as Government purchased it from them, though after that the Government readmitted the claims of the individual Ngatiawa proprietors.⁷⁰ Separate proprietary rights were respected, and the rights of the subdivisions, or different hapus of each tribe, have been recognized; but no general tribal rights or right of chieftainship has been acknowledged within the block comprized in Mr Spain's award.⁷¹ It

will be borne in mind that the conceding of any native rights within that block was an act of grace on the part of the past and present Governors.

It is a significant fact, that, when it was supposed that a certain Rawiri Raupongo was not a consenting party to the sale (the said Rawiri being withheld by fear from openly joining Teira), one of William King's principal men (named Komene Patumoe) acknowledged to Archdeacon Govett, that if Rawiri Raupongo had been a consenting party to the sale, they could have had nothing to say against it. By which Archdeacon Govett understood him to mean, that the natives generally at the Waitara could not reasonably have opposed it.⁷² Now Rawiri Raupongo is openly one of the sellers, his name is affixed to the agreement. The above admission to Archdeacon Govett looks very much as if King's party was aware that King had no just title, either personal or tribal, to interfere in the sale of the disputed land.

3. Mana.

Some stress was laid in New Zealand, and much has been said in England, on this subject. A notion has prevailed, that mana resembles the right of a feudal superior in the middle ages, a manorial or seignorial authority. According to such a notion of it, King has been supposed to be Teira's feudal superior, and that, when Teira's land was sold, King's rights were violated, because his mana was not respected. Now we have seen something of the passing of the mana over Taranaki by conquest to the Waikatos, and of its being sold by them to the Crown. But to waive this, it was repeatedly stated in the houses of Assembly, in August, during the debates on this subject, and without contradiction or dissent, that mana is simply the right of the strongest. If a chief by warlike prowess or any other means acquires great personal power and influence, that

is his mana. The mana does not extend to land only, but to all interests whatever, and in time of war it seems to amount to an absolute dictatorship. Hongi in a former war is said to have exercised it by prohibiting the people from selling the produce of their lands for anything except guns and powder; and that so strictly, that the mission had great difficulty in obtaining provisions.⁷³ Mr Bell, a high authority, says, "In former times, before the establishment of British Sovereignty, the power of the chiefs depended on the law of the strong arm. What you call mana was just this, that what a great chief could hold he held, and what he could not hold was taken from him by some one else. Mr Busby, writing in 1837, says, 'To those unacquainted with the status of a New Zealand chief it may appear improbable, that he would give up his rank and authority; but in truth the chief has neither rank nor authority, but what every person above the condition of a slave, and indeed most of them, may despise or resist with impunity.' I heard Mr McLean the other day, at the Conference at Kohamarama, ask what other right of mere chieftainship, independent of tribal title, existed anciently, but the right of the strong arm, and there was no dissent, for the assembled chiefs knew that he spoke the truth."⁷⁴ So entirely arbitrary does all pertaining to mana and chieftainship appear to be, that Archdeacon Hadfield tells us, "A man of good descent, even of the best blood in the tribe, may lose all rank in the tribe, and be treated simply as a tutua. The law of primogeniture does not exist in reference to chieftainship. But a chief would not lose his claim to land by becoming a tutua, his title would not be effected by it."⁷⁵

It appears, however, that the claim of mana is one on which King's friends in New Zealand lay but little stress. And as it is clearly not of a manorial or feudal character, but simply one of personal power and influence, it can hardly be of that nature that the English law would acknowledge it.

4. Land-league.

It has been constantly maintained by the Chief Commissioner, Mr McLean, and by the supporters of Government, that King's influence, or mana, was really as a great leader of the Land-league. It should be understood that two great movements have been going on among the natives for some years. 1. The Maori-King movement; the object of which is to have a native King to govern the Maories, as the Queen of England and her representative, the Governor of New Zealand, rule over the Europeans. This movement sprang up about A.D. 1854, chiefly among the Waikato tribe, hereditary foes of the Ngatiawa, and William King was not at first connected with it. 2. The Land-league originated in a natural feeling among the natives and their friends, that the constant alienation of property was impoverishing the natives and giving more and more strength to the encroachments of the Europeans; for whereas the Maories parted with their land and so were losers, they speedily spent the purchase-money, and so were not proportionately gainers.⁷⁶ The following

account of the origin of the League is given in evidence by Mr McLean:

"This League I first heard of as having commenced at Otaki. The natives of that place assured me that they had very good advice on the subject, and that they had resolved not to dispose of any more land to the Government. This League kept gaining ground for some years, until a general meeting took place in the Ngatiruanui country, where the natives pledged themselves, not only to sell no more land, but to take the life of any one who should attempt to do so. This meeting took place about seven years ago" (i. e. about two years before Colonel Browne's government). "It was also resolved at this meeting of the natives, that they should

entirely repossess themselves of land already alienated by them, and drive the European settlers into the sea. The subsequent murders, involving the death of Rawiri, Katatore, and others, that have taken place at Taranaki, have been the result of that league and confederacy at Manawapo; and there is very little doubt that the settlement of New Plymouth, since the foundation of this Land-league, has been in a very perilous position."⁷⁷

Now, in Feb. 11, 1859, W. King, who for many years had actively opposed the sale of lands, wrote a letter to the Governor and Mr McLean, which, however, reached Auckland when the Governor was absent, in which he tells

him that no land should be sold to the Europeans within certain boundaries. He continues, addressing Mr McLean: "I have therefore written to the Governor and to you to tell you of the Runanga of the new year, which is for withholding the land, because some of the Maories still desire to sell land, which causes the approach of death. It is said I am the cause; but it is not so. It is the men who persist. They have heard, yet they still persist. If you hear of any one desiring to sell land within these boundaries which we have pointed out to you, do not pay attention to it, because that land-selling system is not approved of. This is all."⁷⁸

On this letter Mr Richmond, the Minister of Native Affairs, makes the following remarks:

"Now the House will observe that Waitaha" (one of the boundaries mentioned in King's letter) "is a small stream just beyond the Bell Block, which is the extreme northward boundary of the English settlement. Waitaha is the Land-league's boundary agreed to at Manawapo. King's is the boundary I have just read. It begins at Waitaha, and runs inland straight along the English line, and he says, 'You shall have nothing beyond Waitaha, nothing between that and Makau.' Now, is this a claim of title? Is this the boundary of a Maori proprietor? Why he includes all the Puketapu country" (i. e. the country of another independent tribe). "Is it not plain that this is over again the same thing: 'The Europeans shall not advance one step. They shall neither have my land, nor that of any one else.' This tyranny is the grievance of Makau, the present head of the Puketapu country. Look at his letter to the Governor in the Maori Messenger of the 30th of April: This is the grievance of Huia, of Nikorima, of Te Teira. This is what has filled Taranaki with strife and bloodshed."⁷⁹ Here in this letter you have the

Land-league confirmed. King has been gradually consolidating his influence in New Plymouth since his return, till his mana has reached the Waitaha. His right is that negation of right, the strong arm. He is defying Governor Browne as he defied Governor Grey."⁸⁰

What makes it more apparent that King's was really a political move, rather than a personal claim of right, is, that immediately after Teira's offer of land to the Governor, King fell back upon the support of the Waikato, invoking the co-operation of the Maori king; and a letter was sent to the Maori king offering the land from the European border to him.⁸¹ Moreover, before any movement of our troops to Waitara, King had prepared two strongly fortified pas, well stored with provisions, and had sent letters to all parts of the country requesting support."⁸²

King's Character.

It is strongly urged by Archdeacon Hadfield and his friends, that W. King is a chief who has always been friendly to the Europeans, and that in the collision that occurred between the natives and Europeans in 1843, and again in 1846, he rendered most signal services to the Government. "What," asks the Archdeacon, "are the loyal natives to think of a Governor, who, without the least provocation singles out this chief distinguished through a long course of years for his loyalty to H. M.'s Government and friendship to the English, for a hostile attack?"⁸³

It is scarcely worth while to notice the perversion in this statement, as though the Governor had attacked King, whereas King first defied and then attacked the

Governor.⁸⁴ But, as to the question of King's loyalty, it is not denied that King is a high-spirited and in many points noble Maori chief, and it is a subject of regret, that necessity should lead to collision with such a man. It is admitted, that formerly he was loyal. But even in 1846 the ministers assert that his services have been greatly magnified. His fidelity was doubtful. His attitude was little, if at all, more favourable to the British Government than that of an armed neutrality.⁸⁵ But it is added, that, since 1848, when in spite of Sir George Grey he returned to Waitara, his conduct has been that of a turbulent chief, ever the head of the anti-land-selling party, by which so much violence and bloodshed has been caused in Taranaki, though he is wholly acquitted of any personal share in the murders.⁸⁶

Governors Statements.

It has been much objected, that the Governor had said that he would not purchase land with a disputed

title; and it is added, that the title in this case was at least disputed, whether rightly or not, that therefore he ought to have fallen back on his own declaration and have yielded to King's opposition. It may be that the word "disputed" was an ill-chosen word. What the Governor obviously meant was a clear and valid title. If an undisputed title be one to which no objection, however frivolous, be urged, it is plain enough that, whilst the Land-league exists, no land can ever be purchased, for members of the Land-league can always urge some objection. And it is to be remembered, that the Governor added, that he would never allow one chief to prevent another from selling that which was his own. Teira offered land to which he asserted an unquestionable title, King forbade the sale. The Chief Commissioner, having the Queen's special authority for that purpose, and having for twenty years performed the office, is desired to investigate the title. After eight or nine months' patient enquiry, he reports that Teira's title is undoubted, King's right of interference none at all. Teira is the weaker, King the stronger. On what principles of justice or of policy could the Governor yield to the stronger and repel the weaker, repudiate the judgment of the Commissioner, and, when the title was declared to be good, refuse to fulfil his promise and to purchase the land? Would such a course have vindicated the majesty of English Law, or have inspired the natives with a sense of our justice, our truth, or our power?

NOTE 1.

The severity of Archdeacon Hadfield's condemnation of the Governor will plead my excuse for extracting the following testimony to his character from the recent debates.

Mr Stafford, the Colonial Secretary, said: "I have had many opportunities of knowing His Excellency. I have not concurred in all his opinions nor in all his acts; but I will say this, that I never once doubted the entire honesty of his motives (cheers). Sir, Her Majesty, and the British Nation, never had a more upright representative than Governor Gore Browne (loud cheers). One desire, conscientiously to do his duty, governed all his actions. No greater proof of this could have been afforded than his conduct as to the Taranaki question (hear, hear). Had he not been an honest man, nothing could have been simpler than to have smoothed over and patched up this question. He might have avoided any declaration of policy, or have failed to act up to it when opposed by a contumacious native. He might have really degraded the dignity of the crown in the native mind, but he might not have gone to war. He might have left that for his successor, and have left

the colony with the character at home of having held a most peaceful reign, of being a 'model Governor.' But he preferred to do his duty (loud cheers)." – See New Zealander, Aug. 11, p. 6, col. 4.

NOTE 2.

The Bishop of Wellington has complained, and that repeatedly, that the Governor did not give public notice to the Colony of his intention to call in the aid of the military, has said that he and others had "no idea of the sudden coup de main that was planning," and has excused Archdeacon Hadfield's suppression of King's letters by pleading, that he could not have expected such decided action on the part of the Governor. How this excuses the Archdeacon it is hard to see. But as to the so-called coup de main, is it strange in any country that, when a mob resists and overawes the civil authority, the executive should call in the aid of the military? The Governor had given abundant and most public notice, that he would not allow unlawful interference. Was he bound to proclaim through the Colony that he meant by this that, if the civil powers failed, he would support them by the

military? Could anyone suppose that he would yield as soon as the police were overpowered?

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On the other hand, the Governor has been blamed for imposing restrictions on the Commander of the Forces, because he forbade him to attack W. King, until it was proved that the civil authorities were insufficient, and until King committed some overt act of aggression. What should we have said in England as to the mercy or the justice of any severer proceeding? A man assailed by two opposite extreme parties is most probably in the right.

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37 Strong testimony is borne by Mr Stafford, the Colonial Secretary, to the Governor's industry in making himself acquainted with native questions. "One of His Excellency's first acts on his arrival was to address letters to men of all professions inviting information on native questions... This correspondence was maintained to the present day, and occupied great part of the Governor's time. It was most incorrect to suppose that His Excellency relied on the Native Department only for his opinion on native matters, or even for his knowledge of facts. He did not do so, though he very properly consulted them." New Zealander, Aug. 11, p. 6, col. 3.

38 New Zealander, Aug. 15, p. 6, col. 2.

39 "By the arrangement of 1856 ministers were placed in the special position as to native affairs, that, while they could offer advice with respect to them, that advice might be rejected by the Governor, subject to the ultimate decision of the Secretary of State for the Colonies. It was most incorrect to suppose that ministers were debarred from advising the Governor on native matters, on the contrary, they were not only not so debarred from advising His Excellency, but they were required to advise, both as responsible ministers, and as members of the Executive Council of New Zealand." – Speech of Mr Stafford, Colonial Secretary (i.e. Prime Minister of New Zealand), Aug. 7, 1860, reported in the New Zealander, Aug. 11, p. 6, col. 2. See also the statement of Mr Sewell (a former Prime Minister) to the same effect. N. Zealander, Aug. 15, p. 8, col. 1. The counsel actually given to the Governor by the Executive Council is recorded, E, No. 3, p. 11.

40 Papers, E, No. 4, p. 24. Mr Dillon Bell, a member of the House of Representatives, and a very high authority on native affairs says: "It is all very well to sneer at Mr McLean, and to call him ignorant on native matters. I tell you he has never been equalled, and never will be equalled for the authority he possesses among the chiefs of every tribe in the islands, and for the confidence he has inspired among them during a period in which we have bought 30,000,000 of acres." – Debate, Aug. 3, N. Zealander, Aug. 8, p. 7, cols. (5, 7. See also Mr Domett's Speech to the same effect, N. Zealander, Aug. 11, p. 5, col. 6.

41 Speech of Mr Sewell in House of Representatives, Aug. 7, 1860, N. Zealander, Aug. 11, p. 7, col. 2. – The Bishop of N. Zealand, the Bp. of Wellington, and Archdeacon Hadfield have all complained that a more competent tribunal did not sit on this question. The Ministers replied, first, the constant custom had always been to refer these questions to the tribunal of the Land Commissioner; 2ndly, that the natives could never have been induced to submit their claims to a more regular court, as they would have accepted its decisions if favourable to them, and rejected them, if adverse; 3rdly, that from the habits of the natives, the truth was more easily elicited by such an officer as a Land Commissioner, than by any formal procedure of a court of law; 4thly, that the flexible practice of the Land Purchase Commission admits of concession to the natives, not justifiable on any ground of strict principle, and so is far more beneficial to the interest of the natives than the practice of the Court of Law could be. See Papers, E, No. 1, B, p. 3. Still the Ministers observe that the Bishop's anxiety to see a tribunal established for judicial investigation of questions affecting native titles cannot exceed that of the Governor and his Ministers: but all persons at all acquainted with the affairs of New Zealand are aware, that the difficulty in the way of the establishment of such a tribunal lies with the natives, and that a chief reason why the Royal Assent was refused to the "Native Territorial Rights Bill," in 1858, was the likelihood that awards would not be acquiesced in by the contracting parties (ibid). The Chief Justice complains that the English Government has left the natives without the power of having their grievances redressed in any court. (N. Zealander, Sept. 5, 1860, p. 6.)

42 It is specially to be observed, that before this speech of W. King's other proprietary claims were urged and immediately attended to, so that King must have known that his would not be repudiated, if he had any to urge.

43 The following is one of the strangest and most instructive parts of this controversy. Archd. Hadfield writes to the Duke of Newcastle:

"With regard to Teira's right to sell, which is so positively asserted, and on the supposed validity of which a war has been commenced at Taranaki, can I expect to be believed in England, when I assert, as I do unequivocally, that Teira's father, Tamati Raru, through whom alone the son could lay claim to any land, as inherited by him from his ancestors, is still alive and opposed to its alienation?He refused to sell, and co-operated with Wm. King up to the very commencement of hostilities. I feel that nothing I could add to this fact, would tend to strengthen the assertion I make, that the claim set up on behalf of Teira to alienate the whole block of land is altogether untenable."

Now compare with this "unequivocal" and triumphant assertion not only the fact that Tamati's name is affixed to letters of Teira's, urging the Governor to complete the purchase (see E, No. 7, pp. 9, 10), but also with the following uncontradicted statement of the Colonial Prime Minister: "There had been rumours that Teira's father, Tamati Raru, was fighting on King's side; the fact being that Tamati Raru had assisted to cut the boundary lines for the surveyor of the very block in dispute. Tamati Raru's only objection to the proceedings of the government was, that they had not at once given him a gun to enable him to fight on the government side. They had received letters from him, not declaring that the land should not be sold, not desiring that the survey should be stopped, or the military occupation of the land be abandoned, but asking for a gun to fight for them." – Speech of Mr Stafford, Aug. 7, N. Zealander, Aug. 11, p. 6, col. 3.

44 Papers, B, No. 3, A, pp. 3, 4. Mr McLean says in evidence, that he had it from King's own brother that King's cultivations were wholly or almost wholly on the North side of the river. E, No. 4, p. 15. And Archdeacon Hadfield admits that he believes this to be true. E, No. 4, p. 12, near foot of page.

45 E, No. 3, p. 21.

46 Yet the following comment by the Chief Justice is worth considering: "I am aware that I shall be told that these words in Maori have a profound and hidden meaning, not intelligible to the unlearned. And, when we have applied our simple faculties to apparently plain expressions, some recondite Maori scholar will tell us, 'Oh! if you knew the habits of thought of the native mind, you would discover a meaning very different from the plain meaning of the words themselves. To be sure, these scholars themselves may differ upon their interpretation. But His Excellency is compelled to act upon the light offered to his understanding. Was it too much to expect, that Wiremu Kingi, lofty and proud chief he may be, should have condescended, during the interval

between March 1859, and March 1860, to state the meaning of his conduct? But no! after twelvemonths of sulky defiance, he treated the interview proffered by her Majesty's representative with scorn. Mr Parris, Mr Rogan, and Mr Whitely (a Wesleyan missionary), were bandied from place to place, and when at last Mr Whitely found and prevailed on the proud chief to admit a conference with Mr Parris, the utmost of his condescension was that he would send his decision to H. E. next day.When to the above facts I add this one, viz. the ready supply of powder and ball-cartridge in the hands of the natives round Taranaki, I cannot resist the conclusion, that the enemy had long been preparing for the issue of peace or warOn the present occasion, it is enough to say, that if Wiremu Kingi had any title, tribal or otherwise, he owes it to himself that his title was not recognized; seeing that the purchase from Teira was not hastily concluded, and that while H. E.'s conduct was marked by a patient and thoughtful reserve, he met only with defiance and contempt." – Speech of Chief Justice in Legislative Council, N. Zealander, Sept. 5, p. 6.

[47](#) E, No. 4, p. 3.

[48](#) E, No. 4, p. 18.

[49](#) Ibid.

[50](#) Ibid. One of Archdeacon Hadfield's positive statements, in his Letter to the Duke of Newcastle (p. 18), is, "that the Chief Commissioner, Mr McLean, took no part in the investigation, but that it was wholly committed to a deputy, Mr Parris."

[51](#) E, No. 4, pp. 6, 7, 9,

[52](#) E, No. 4, p. 20. E, No. 3, A, p. 3. These letters appear to be the strongest evidence alleged against the care and diligence of the Commissioner in his investigations. The letters deny that enquiries were made of the writers, who had themselves claims, and though they confess to having heard of the discussion about the sale, they say, that knowing that King was moving in the matter, they trusted to him as their chief to oppose it, and to the justice of Government not to enforce the purchase, when the title was disputed. Mr McLean's general explanation is, that he made constant appeals to claimants to come forward, and that to Otaki especially he had sent several copies of the Governor's speech, inviting claims, but that none were made. The particular claim since made in these letters he denies to be just. E, No. 4, p. 21.

[53](#) Quoted at length by Mr Forsaith, Aug. 3, 1860. New Zealander, Aug. 8, p. 6, col. 2.

[54](#) Ibid., Aug. 8, p. 3, col. 2.

[55](#) New Zealander, Aug. 11, p. 6, col. 6.

[56](#) Ibid. p. 6, col. 4.

[57](#) Ibid. Aug. 8, p. 3, col. 2.

[58](#) See admissions to this effect by Mr Forsaith, in the House of Representatives, New Zealander, Aug. 8, p. 7, col. 4; and by Mr Swainson, in the Legislative Council, New Zealander, Sept. 5. Considering the high esteem in which the Governor held Archdeacon Hadfield, shewn publicly by his recommending him to the Bishopric of Wellington, and the influence which the Archdeacon had over Wiremu Kingi, his disciple in the Christian faith, if, instead of confirming King in his resistance to authority by saying it was impossible that he should be deprived of his undoubted rights, and at the same time maintaining a dogged silence to the Governor, he had come forward, as both parties had requested him, and had acted the part of a mediator, is it not in the highest degree probable that much might have been done to prevent the outbreak? He could not but have known of the danger of that outbreak from King's own letters; and the Governor had written to ask for information from him. It is but fair to give his own explanation of his conduct. The reason which he assigns for not informing the Governor is, that he had had an assurance from him that he would never use force to obtain possession of disputed lands, even if his ministers urged him to do so, that accordingly he never entertained a suspicion that King and his people would be ejected from land, "to which they had an undoubted title;" that he therefore thought it more likely to uphold the dignity of the Governor to write only to King, saying that his forcible ejection from his land was impossible. Then, having reproached the Governor for not acting without consultation with his ministers, he continues, "But when I am told that a grave responsibility rests on me, I deny it: I repudiate the charge. The Government are responsible for the direction of public affairs. They have undertaken it. I have always supplied to the best of my ability any information that has been asked of me. I cannot be charged with having ever failed to reply by return of post to any letter addressed to me by any official person in this colony during the twenty years of its existence. But I will not lay myself open to the charge of wishing to intrude into the Governor's privy chamber.' Had the Government desired information of me, they very well knew they could have obtained it" {New Zealander, Aug. 11, p. 5, col. l}.

[59](#) Dr Featherstone's Speech, Aug. 7, reported New Zealander, Aug. 15, p. 8, col. 3 seq.; Archdeacon Hadfield's Evidence. Papers, E, No. 4, pp. 2, 3.

[60](#) The Waikato is the tribe in which the great movement for making a native king originated, and from them W. King sought aid and countenance in his contest with Government.

[61](#) Speech of Mr Williamson, New Zealander, Aug. 11, 1860, p. 7, col. 5. A report of the meeting of the chiefs at Waikato is given at length, New Zealander, June 27, 1860.

[62](#) It was said in the Legislative Council, that "the Archdeacon's statements were vague, loose, and indefinite, full of confessions of ignorance on some points, and on others, where he did make a distinct assertion on matters of fact, he fell into what had since been proved to be the grossest blunders. On the other hand, Mr McLean's testimony was precise, consistent, and definite. His statements were distinct and unmistakeable. They were open to be impugned, but as yet no one had ventured to impugn them." Mr Tancred's Speech, New Zealander, Sept. 5, p. 5, col. 5. This judgment is that of one opposed to the Archdeacon, and must be taken with allowance; but what may be called the cross examination of the Archdeacon (see E, No. 4, pp. 12-14) does appear very much to warrant the language here quoted.

[63](#) E, No. 4, pp. 22, 23.

[64](#) Ib. p. 24.

[65](#) Ib. pp. 19, 20.

[66](#) Ib. pp. 18, 20, 22. Archdeacon Hadfield differs from Mr McLean here. He says, Te Patukakariki, not Ropoama, is the head of the two hapus, to which King belongs. E, No. 4, p. 3. Mr McLean says he knows that Patukakariki is not the head of these hapus, though he is a chief of some importance He distinctly asserts Ropoama to be the head. He thinks Patukakariki may have claims to part of the disputed block, but, though a letter addressed to him, to W. King and to all the people of Waitara, was written inviting them to come forward and prove their claim if they had any, he has never made such claims, nor opposed To Teira's offer. E, No. 4, pp. 20, 22, 23.

[67](#) E, No. 4, p. 17.

[68](#) Ib. p. 20.

[69](#) Ib. p. 24. See also Mr Richmond's Speech in the House of Representatives, New Zealander, Aug. 8, p. 5, col. 2. The purchases in Taranaki have been, 1. the Fitzroy Block; 2. the Grey Block; 3. the Bell Block; 4. the Hua and Waiwakaiho; 5. the Tarurutangi. King never had a sixpence paid him for any of these, nor was his consent asked by others. Mr Richmond's Speech, as above. The purchase of the Bell Block, conducted on the same principles as the purchase now in debate, was specially approved by the Bishop of New Zealand. E, No. 1, B, p. 3.

[70](#) Ib. p. 21.

[71](#) Ib. p. 24.

[72](#) Letter from Archdeacon Govett. Papers E, No. 3, A, p. 3.

[73](#) Southern Cross, Sept. 1, 1860.

[74](#) Debate, Aug. 3. New Zealander, Aug. 8, p. 7, col. 5.

[75](#) Evidence, E, No. 4, 13. As regards birth, it is proved by their respective pedigrees, that Teira's is superior to King's, for his descent is strictly in the male line, whilst King's is from the marriage of a female with an unknown adventurer. The pedigrees are given in the Maori Messenger, April, 1860, and in the New Zealander, Aug. 8, p. 5, col. 3.

[76](#) It has been singularly stated by the Bishop of Wellington, that the natives have been indisposed to sell their land in consequence of the Governor giving assent to a bill in 1858, forbidding the natives to endow native ministers of religion with their own lands. This, he has "no hesitation in saying" has tended as much as anything to alienate the affections of the natives, and to drive them to join the Maori-King movement." – {Memorial of the Bishop of Wellington and Archdeacon Hadfield to the Duke of Newcastle, P. S. by the Bishop of Wellington. E, No. 1, A, p. 17). The answer by the Governor and his ministers to this serious charge is, that no such act ever passed the Assembly, and so none such could have received the Governor's assent [Ibid. p. 16]. The only change during this Governor's term of office has been by the New Zealand Reserves Act, 1856[?], which gives facilities for the endowment, by natives, of schools and other eleemosynary institutions, and for empowering them to grant sites for churches and burial-grounds [Ibid. p. 18]. Every one who knows Bishop Abraham will acquit him of intentional misrepresentation, but these unhesitating charges sent home against a Governor, ought not to be made without fuller investigation of their truth. The higher the station and character of the accuser, the more cautious should he be in his statements.

[77](#) E, No. 4, p. 19.

[78](#) E, No. 3, A, p. 5.

[79](#) Speech, Aug. 3, New Zealander, Aug. 8, p. 5, col. 2. See also Ibid. Aug. 11, p. 5, col. 1, foot of page, concerning origin and boundaries of Land-league.

[80](#) Ibid. See to the same effect, Evidence, E, No. 4, p. 24. See also New Zealander, Aug. 11, p. 7, col. 4, near foot of page.

[81](#) E, No. 1, B, p. 4. E, No. 3, p. 6. E, No. 3, II, p. 4.

[82](#) E, No. 1, B, p. 4.

[83](#) Letter to the Duke of Newcastle, p. 23.

[84](#) The words of Mr Dillon Bell are to the purpose. "It has been said that the Governor meant and wished to make war. Nothing can be more utterly untrue. The Governor's main objects in his declaration of March, 1859, were, first, to put an end to the dreadful scenes of bloodshed that for years had been enacted among the natives, and that threatened at any moment to involve the settlers, and secondly, to free the natives from the oppression of the land-leaguers. It was a natural consequence of these declarations that he should accept Teira's offer of the Waitara land; and when, upon his attempting peaceably to lay out upon the ground the position and extent of Teira's claims, Wiremu Kingi resisted the survey by force, and prohibited him from even ascertaining what those claims were, it was a further natural consequence that the Governor should repel such an assumption, and oppose force to force. It was not the Governor who made war on Wiremu Kingi, it was that chief who made war on the Governor, by erecting armed pas, by performing war-dances, by refusing the safe conduct and rejecting the merciful summons that was sent to him." – New Zealander, Aug. 8, p. 7.

[85](#) E, No. 1, B, p. 4.

[86](#) Ibid. See also New Zealander, Aug. 11, p. 6, col. 6, also p. 7, col. 2, foot of page.

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