

REPORT

FROM THE

SELECT COMMITTEE OF THE HOUSE OF LORDS,

APPOINTED TO INQUIRE INTO

THE PRESENT STATE OF THE ISLANDS OF
NEW ZEALAND,

AND

The Expediency of regulating the Settlement of
British Subjects therein ;

WITH

THE MINUTES OF EVIDENCE

TAKEN BEFORE THE COMMITTEE,

AND

AN INDEX THERETO.

Ordered to be printed 3d April 1838.

REPORT.

BY THE LORDS COMMITTEES appointed a SELECT COMMITTEE to inquire into the PRESENT STATE of the ISLANDS of NEW ZEALAND, and the Expediency of regulating the Settlement of British Subjects therein; and to consider and report; and to whom was referred the **Petition of Merchants and Ship Owners of London**, trading in the South Seas and to the Australian Colonies, praying for Protection of the Shipping Interest; and to whom were also referred certain Papers connected with the Inquiry before the Committee:—

ORDERED TO REPORT,

THAT the Committee have met, and have considered the subject Matter to them referred; and have come to the following Resolution; viz.—

RESOLVED,—THAT it appears to this Committee, that the Extension of the Colonial Possessions of the Crown is a Question of public Policy which belongs to the Decision of Her Majesty's Government; but that it appears to this Committee, that Support, in whatever Way it may be deemed most expedient to afford it, of the Exertions which have already beneficially effected the rapid Advancement of the religious and social Condition of the Aborigines of New Zealand, affords the best present Hopes of their future Progress in Civilization.

AND the Committee have directed the MINUTES of EVIDENCE taken before them, together with an INDEX thereto, to be reported to the House.

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Deeds Registration Act 1908

11 Instruments made before the issue of Crown grants

Instruments relating to waste lands of the Crown purchased of or acquired from either the Crown, the New Zealand Company, or the Canterbury Association for founding a colony in New Zealand may be registered notwithstanding the non-issue of a Crown grant or conveyance of such land; provided that the position and boundaries of the land so dealt with appear to be accurately laid down upon some map of the Crown Lands Office of the district in which such land is situate, and that the map is marked with the sectional number or other designation by which it is intended to describe the land in the Crown grant or conveyance of the same.

Compare: 1868 No 51 s 16

Rev. S. Hinds, D.D. The Reverend SAMUEL HINDS, D.D., is called in, and examined as follows :

YOU are a Clergyman of the Established Church?

I am.

Are you connected with New Zealand in any Way?

No otherwise than as a Member of the Committee of the Association.

What in your Opinion is the Policy of colonizing New Zealand?

I think that a Colony will be expedient in the first place on account of the Number of Persons of various Classes in Great Britain who are anxious to settle themselves in a Colony in New Zealand,—Persons who, from Character, Station, and other Circumstances, have a Claim upon the British Parliament to facilitate their Object. The Feeling in favour of such a Colony is very strong in certain Districts. I could name particularly some Districts in Scotland. It was only within the last Three Months that I received a Letter from Paisley, stating, that if a Colony were founded in New Zealand on the Principles laid down in our Publications, in that Neighbourhood alone there were a Hundred respectable Persons (indeed I am not sure whether the Expression was not respectable Families, but I have not the Letter) who would emigrate immediately. I notice this Letter particularly, because the Inquiries respecting a religious Establishment, and other pertinent Inquiries, show that they are respectable and provident Persons. Other Letters of a similar Character had been received previously to this; and the Feeling is so strong amongst Persons of various Descriptions in Great Britain, that I should say it amounts to a Claim upon the British Parliament. With many of them it is a Measure of Relief; their Circumstances require some Change for the better; and they look forward to this Colony as a Measure of Relief. There is an Abundance of Capital and an Abundance of Labour in Great Britain,

and the Abundance of Capital the Capitalists can hardly employ so as sufficiently to remunerate them by any Investment in this Country; at the same Time there is a great Mass of the labouring Population who can no longer obtain sufficient Wages to keep up what have become the Necessaries of Life to them. The proposed Colony would, therefore, be a Measure of Relief both to Capitalists and to Labourers. The Islands of New Zealand, too, are, from their Situation and from their Products, particularly calculated to answer the Purpose of such Colonists; the Country is very favourable for Commerce; it has already Products which are brought into the European Markets; the Flax especially, and Timber for Ship-building; it is the Scene of a very important Portion of our Whale Fishery. But independently of those Grounds, which I think would be sufficient to recommend the Measure as a Measure of Relief to a certain Portion of the Population of Great Britain, I should say that we are imperatively called upon to establish a Colony, or rather to establish organized Society in New Zealand, because there is at this Moment an irregular Process of Colonization going on there. There are Colonists already in the Country, Colonists who have settled there for different Purposes; those who are there for the Purpose primarily of instructing the Natives in Religion; they and their Families of course become the Germ of future Villages. Then there are Traders who have established themselves there; there are escaped Convicts, and Persons of even a worse Description, wandering through the Island; and, added to all this, the Commerce of the Country is increasing, and of course brings with its Increase an increasing Number of Visitors to the Island, Sailors, and those who come for commercial Purposes: all those have no combining Principle of Society; they are without Law, and the natural Results have taken place, that, as their Numbers have increased, lawless Habits have increased; and at this Moment both the Native Inhabitants and the Settlers are suffering from the Want of some Principle of Society, some combining and controlling Principle,—in short, from the Want of Colonial System. The Official Documents which have been published have been probably before your Lordships Committee; but it may be worth while, if you will allow me, to read a Letter which was put into my Hands Yesterday Afternoon, because it is of a later Date than any of the Official Documents.

What do you mean by official Documents; official Documents received by your Association, or official Documents received by the Government?

Received by the Government. I mean Mr. Busby's Despatch, forwarded through the Governor of New South Wales. That Despatch, I think,—I have not the Document here,—was dated in June; but a Letter was put into my Hands last Night, which is dated the 31st of August 1837. This Letter is written by a Member of the Church Missionary Society (whether a Clergyman or a Catechist it does not state); the Writer's Name is Stack, and it is addressed to a Person named Brown. An Extract from it I will beg to be allowed to read.

From what Part of New Zealand is it written?

The Bay of Islands, I presume; but what I wish particularly to notice respecting this Letter is, that in Mr. Busby's last Letter the Evils of which he was complaining,—the Wars which had taken place,—are stated to have nearly subsided, and he was hoping at least for a temporary Peace. This Letter will show that he has been disappointed in his Expectation. The Extract which has been handed to me is this: "This Island has been the Theatre of much War and Confusion of late. War broke out in this Bay"—it is therefore the Bay of Islands—"a short Time ago, and exposed all the Residents to great Annoyance from contending Parties continually firing across the Bay at each other. Except in One or Two Instances, European Property was respected. One of them was an old M.D. from Scotland, who, through some Peculiarity of Taste, had chosen New Zealand as a Place for the Practice of his Profession, Three or Four Years ago. He and the Natives could never agree, and during the Disturbances, owing to some Obstinacy of his in breaking their Tapu, they quarrelled with and robbed him. The other was a Shipwright, a poor Man, who was robbed of about 5*l.* worth. The next Day all the Traders living on shore, and the Captains of several Whalers lying here at the Time, landed together, and talked very largely to the Natives of what they would do if the Property was not restored. The Number of Guns and the various Ships awed

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them, and they promised to mend their Manners. New Zealand is sadly in want of some Kind of Government. The unprincipled White Men who emigrate here from Chain Gangs in Sydney, not being liable to Punishment, have lately shown themselves so desperate, that Two were seized and taken to Sydney in a Sloop of War to be tried at the Assizes, and One of the lay Members of the Mission had to go to Sydney to appear against him for an Attempt at Robbery and Murder. Their Accomplices escaped to the South. It is reported here, but I do not vouch for the Truth of it, that at Cloudy Bay, far South of this Place, a Band of runaway Convicts are living quite their own Masters. It is hoped that the British Government will do something for this Country, and not leave it to the Mercy of runaway Convicts. The Natives have little or no Chance of Civilization at present. The Commerce carried on is attended with so many Circumstances destructive of the moral Health of the People, that by Degrees, if unchecked, it will effectually do the Work of Depopulation. Those of the Natives who have emerged from the Trammels of Superstition are miserably low in point of Civilization. Their Huts are Abodes of squalid Poverty, and they do not seem ambitious of imitating our Mode of Life. Considering how many Individuals are employed in behalf of this Nation as Teachers no very remarkable Fruit is to be seen. We have no Law or Justice; no Punishment for Crime but private Revenge. This leads to most of the Wars. A Chief, being incensed at some Act of his Neighbour, takes summary Vengeance; the Friends of the Deceased determine on Revenge, and War follows with all its Horrors."

You are not acquainted with the Writer of that Letter?

I am not. I believe that his Name is Stack, but I cannot clearly decipher it. This Letter was handed to Mr. Enderby, a Member of the Committee of the Association, and this Morning I met with Mr. Flatt, who was connected with the Church Missionary Society, and he told me that there is a Person named Stack connected with the Society.

Do you understand the Writer of that Letter to speak of Events that took place subsequently to the Letter of Mr. Busby?

Yes, I do. In the first place he adverts to some Facts which Mr. Busby does not notice; and Mr. Busby's Letter, which was dated the 17th June, Two Months previous, spoke of the War as nearly at an end, and, as he hoped, Peace established for a Time.

You state that there is a great Trade between this Country and New Zealand already in respect of Flax?

Flax is imported, not only into this Country, but in considerable Quantities into France also.

Do you know whether any Flax has been imported into this Country within the last Two Years?

I cannot say. I have seen New Zealand Flax very lately in this Country; but whether imported for Curiosity, or for Purposes of Trade, I do not know. I understand, however, that there is a Frenchman who has made Improvements in the Manufacture of it. He was in London about Four or Five Months ago, and gave some very interesting Particulars respecting the Flax Manufactory, which I do not sufficiently remember to give a Detail of them.

You are not aware whether the Flax has been tried by Direction of the Lords of the Admiralty?

I am not aware. I know that some Experiments have been made upon it, but by whose Direction I do not know.

You have stated to the Committee your Opinion on the Point of colonizing New Zealand; One of your Grounds is the Expediency of thus affording Relief to those who wish to better their Condition by leaving their Native Land. Of what particular Advantage would it be to go to New Zealand instead of Canada or South Australia?

That is a Matter which I think may be safely left to their own Discretion; but I should say that among other Advantages they would probably find the Climate more favourable, the Situation perhaps more suitable for their commercial Views, and they would expect, perhaps, a better Soil.

Are

Are you aware of the Number of Subjects of Great Britain that are Land Owners in New Zealand? *Rev. S. Hinds, D.D.*

No, I am not. I think in the Documents I collected together there is a Statement which may furnish an Estimate.

There was an old Company formed, with Lord Durham at its Head?
There was.

Are they still Land Owners in the Country?
That Company's Colonists were dispersed. I think there remained a few Carpenters and others when the rest left the Island. These Colonists became apprehensive of the Natives attacking them, and quitted abruptly, except those Two or Three, who remained among the Natives, and remained unmolested.

Do you know how much Land is claimed by that Company?
I do not.

They do claim some Land, do they not?
They do claim some Land. It has been the Subject of a Contract between the old Company and the new Association, and they have come to Terms. It is agreed that an Indemnification shall be made to the old Company, if the Bill should pass, and that the Rights of the old Company shall merge in the new Association; and Lord Durham in consequence became a Member of the Committee.

That first Company failed?
It did. A Colony went out,—I do not know on what Principle, but certainly on no Principle resembling ours,—and becoming alarmed they quitted the Country abruptly, without having made any permanent Settlement.

They have made an Arrangement with your Company that if the Bill which is proposed to be passed into a Law shall pass they shall be indemnified?
That they shall be indemnified for the Land which will then become the Property of the Association. There is to be a Transfer of the Land. The Natives consider it to have been fairly purchased, and admit the Claim of the Company to it.

Can you state at all what will be the Amount of the Sum you will have to pay to the old Company for the Land which they have bought?
I do not know that I can give more particular Information than is contained in one of the Clauses of the proposed Bill; it is in the Twenty-first Page, the Forty-third Clause.

That is general, is it not?
It is.

Can you give Information as to the Amount of Land considered to belong to the original Company, which, if the Bill passes, you will have to purchase from the original Company.

The Information furnished by this Clause is: "That it shall and may be lawful for the said Commissioners, in consideration of Cession to Her Majesty or to the said Commissioners, for the Purposes of this Act, of all the Lands, Territories, Hereditaments, Rights, and Privileges of whatsoever Description of the said Company or the associated Members thereof within the said Islands, to grant unto the said Company, or in such Manner for the Benefit thereof as the Members thereof shall require, an Annuity or clear yearly Sum, being either perpetual, or for any Term of Years or any Life or Lives, commencing from the Time when such Cession as last aforesaid shall be made, of any Amount equal to the Interest, after the Rate of Five Pounds per Centum per Annum, on the Sum produced by adding together the Sum of Money actually expended by the said Company and the Interest thereon, after the Rate of Five Pounds per Centum per Annum, up to the Time of such Cession as aforesaid; and such Annuity shall be charged and chargeable upon both the Land Revenue and the ordinary Revenue of the said British Settlements in the same Manner to all Intents and Purposes, and shall be redeemable upon Payment of the Principal Sum upon which the same shall have been calculated as aforesaid." I have not before me the Facts which will enable me to state the Amount of Land.

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Can you procure a Statement of the Quantity of Land stated to belong to the old Company, and the Amount of Money stated to have been paid by that Company for the Land?

Certainly. I am not sure that I can procure an Account of the Money paid for the Land. It would be paid for in Blankets and Hatchets, and so on.

Do you not suppose that the Company kept Books in which they put down the Value of the Articles?

It is very likely they did. I suppose the Details must have been submitted to the Committee, but the Negotiation took place at a Time when I was not present.

When that Negotiation took place, do you believe the old Company did not deliver in to your Association a Statement of the whole Amount of their Expenditure in Pounds Sterling?

I cannot say; very likely they did; and if so of course the Return could be easily made.

[The Witness is requested to make a Return of the Quantity of Land, the Amount paid for the same, and the Expenses the new Association were called upon to pay.]

The Company which is referred to was formed upon the Principle of Adventure for Profit, was it not?

I believe it was.

The Committee are to understand that the present Association is formed entirely upon the Principle of Public Good, and not for the Benefit of any body?

Not for the pecuniary Benefit of any who will have the Administration of it; but of course for the pecuniary Benefit of the Colonists.

The Company which would be formed by the proposed Bill would be bound to lay out every thing they might receive for the Extension of the Colony, and could not as a Company derive any Advantage to themselves?

Certainly not. The Money for which the Land would be sold by the Commissioners or Administrators of the Colony will be a Price made up of several Sums. It will in the first place contain the Sum paid for the Land itself, which I conceive will be a very small Portion; it will contain then a Sum which will be calculated as sufficient for bringing out Labourers to cultivate the Land purchased; that will be the largest Amount: it is also proposed by the present Bill that there should be a further Sum added for the Purpose of making Roads, Bridges, and public Works; and it is also proposed that one of the Items should be a Sum to be expended in making certain Provisions for the Natives, such as procuring them medical Assistance, and some Instruction in the Arts. These several Sums will go to make up what will be the Charge for the Land sold to the Colonists; but it will evidently not be the Price of the Land as it is now, but the Price the Colonists will pay for certain Advantages they will derive in going to that Colony, and which they could not purchase for themselves so conveniently. The Price they will pay for the Land will be only the Price paid for it to the Natives, and the Additions to that Sum will be in fact the Purchase Money paid for certain Benefits which we consider essential to the Prosperity of the Colony, more especially for a due Supply of Labour.

Are the Committee to understand, that whatever Profit or Benefit may arise from the Undertaking is to be applied for the Benefit of the Colony itself, and cannot be for the Benefit of the Gentlemen who are to administer it; that there are no Shareholders?

There are no Shareholders; the pecuniary Advantage, whatever it is, will be an Advantage to the Colony, and to the Natives who will be included in the Colony; but it is not proposed that the Commissioners themselves should derive any Benefit.

You could not by your acting under that Bill individually derive any Benefit from it whatever?

We could not.

Is there any Clause in the Bill to prevent your becoming a Landed Proprietor in New Zealand? Rev. S. Hinds, D.D.

I do not think the proposed Bill goes to that Extent. I should have no Objection to the Restriction; but, as the Bill is now drawn up, a pecuniary Interest is not made a Qualification for being a Commissioner.

There is nothing in the Bill at the present Moment which prevents the Commissioners in England from becoming large Landed Proprietors in that Country?

Nothing.

Lord Durham is one of the Association?

Yes.

He is a Land Owner in New Zealand at present, is he not?

He is not according to this Bill. The old Company would cede their Rights to the present Association.

Are you aware that a few Years since the Flag of New Zealand was recognized in a formal Manner by the British Government?

A Flag was given them by the British Government, not to all the New Zealand Tribes, but only to One or Two near the Bay of Islands; it is the Bay of Islands Flag, and it was given for the sake of some Convenience connected with the Distinction of a Flag, but not for the Purpose of deciding the Question of Sovereign Rights; for had this been the Object it would have been granted to the whole Island.

Are you quite sure it was not granted to the whole Island?

I am quite sure it was not granted to the whole Island.

Was there any Ceremony in which the British Resident stated that he acknowledged the Independence of that Flag?

I do not remember the Circumstances particularly, but I apprehend that there was.

Will you state to the Committee your Opinion as to the Right this Country has to take possession of New Zealand?

I conceive that civilized People have a Right, an inherent Right, over Countries that have not been subject to Civilization, whether those Countries are uninhabited, or partially inhabited by Savages, who are never likely themselves to cultivate the Country. Here is a Country considered to be populous for a Savage Country. According to the Estimate made by a respectable Missionary of the Church Missionary Society, the Inhabitants of the Northern Island amount to about 105,000. This Northern Island is probably the Size of England, and this its Population of 105,000 stated to be decreasing in Number, without any the least Chance of their ever becoming Cultivators or Sovereigns of the Soil. I hold it to be no Infringement of any natural Rights to claim the Sovereignty of the Island; and this is a Claim which, until lately, would never have been questioned. There has been often a Question as to the Mode in which Sovereign Rights over Savage Countries should be distributed among civilized People, but it has been a Question between one civilized Country and another. Formerly the Pope used to claim the Disposal of Sovereignty; subsequently it has been more conveniently settled by allowing the Priority of Claim to the first Discoverers,—a Course as convenient, probably, as can be devised. Within the last few Years, however, the Justice of this Claim has been questioned; and it has been asserted that Savages as well as civilized Men have Sovereign Rights. I do not myself think that they have; but it has been the Wish of the Association not to offend any Scruples, and therefore they have carefully in this Bill waived the Question, and allowed the Claim to a Sovereign Right of some Kind to exist in those Savages. I say a Sovereign Right of some Kind, because it is clear in the Instance just now mentioned, the giving the Flag to the Bay of Islands, that the very Assumption on the Part of Great Britain of a Right to give that Flag supposes the New Zealanders not to be altogether a Sovereign Power. Many, probably, who may be willing to cede to them the Right of Sovereignty as far

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as concerns themselves, would not go to such Lengths as to say that Great Britain should cede the Sovereignty as far as regards any Right which may be put in by other Nations; and I do not know on what Principle we should draw a Distinction, and say how much or how little of this Right of Sovereignty we should claim. The French have been attracted by the Usefulness of the Flax: suppose they were to say, if you relinquish your Rights of Sovereignty we will put in our Claim; we stand next: or the Dutch may say so. I do not know which visited the Country first, but I cannot see on what Principle we could interfere with the French or the Dutch, unless we contended that we had some Disposal over the Sovereignty of the Island. The Question, however, has been waived in this Bill; we suppose the New Zealanders, and not Great Britain, to be in Possession of the Right of Sovereignty, and we propose, accordingly, that a Purchase should be made of the Sovereignty as well as of the Fee Simple of the Land. We have some Precedents for this. I do not know whether it is of consequence to bring forward Precedents, but even at a late Period a Purchase of this Kind has been made; Sir Stratford Canning took possession in 1815 of Singapore; it was at that Time in the Possession of the Malays, the Subjects of the Sultan of Jahore. In 1825 he found, I think, some Inconvenience arising from the Sultan's Claims, and the English bought the Domain of the Sultan for a Sum of Money; and so clear was the Understanding about it, that the Sultan made some Reservations; some exceptional Laws, as they are called in this Bill, were made. There was a Clause providing that the Sultan's Slaves should not be emancipated; and certain Lands were reserved, and became entailed Property, and inalienable. When Penn purchased Pennsylvania he no doubt understood that he purchased the Sovereignty as well as the Fee Simple of the Land, for I can conceive no one mad enough to found a Colony in the midst of Barbarians without securing the Colonists against their Interference as Sovereigns. Vattel certainly speaks of Penn's Treaty as if he understood him to have purchased the Sovereign Rights as well as the Fee Simple. These are Precedents which may not perhaps be considered as carrying with them any great Authority. The Question has not been very much discussed; it has been taken for granted, and I think with Reason, that the Savage is in a State of Pupillage, and must be treated as we treat Children. The only Principle which it is important to maintain is this:—if you go into a Country at all inhabited by Savages, and take possession of their Land, and become Sovereigns of it, you infringe their Rights if you do not consider their Benefit as well as your own. If you were treating with a Child you would not infringe the Rights of that Child simply by acting and deciding for him, but you would infringe his Rights if you acted and decided for your Benefit and not his. So with respect to Savages; they are, compared with civilized Men, like Children. They are of themselves incapable of acquiring the Arts and Habits of civilized Life, unless some Interference, that amongst civilized Men would be considered unjust, takes place, they never can of themselves rise to that higher Condition. The Injustice to be deprecated is that of seeking our own Benefit solely, and not theirs; and with respect to the New Zealanders our Purchase of the Sovereignty of their Country ought not to be represented as being the same Kind of Bargain as if the French, for instance, were bargained with to cede the Sovereignty over any Portion of their Territory. When the French ceded their Sovereign Rights over Martinique, Guadaloupe, and the Mauritius, they strictly ceded all their Sovereign Rights; but in the present Instance what is meant by the Cession of Sovereignty amounts to this—that we purchase the Right to participate in the Sovereignty with them; we do not wish to exclude them, but pay them a Price to partake in the Sovereignty with them. Of course, in the first instance, the civilized Man will be the only Sovereign, but that is because he only will be fit and capable of exercising Sovereign Rights. As the Savage advances in Civilization he will come in for his Share; and I see no Reason, as soon as the New Zealander is capable of it, against his being Chief Justice, Governor, or Bishop, or holding any other Office. It is not, therefore, that we take the Sovereignty from him; we purchase the Right of participating with him in the Sovereignty, and by so doing we enable him to become the Sovereign of the Country, which he is not at present.

Do

Do you consider that the Establishment of a Colony in New Zealand, under such a Plan as the Bill you hold in your Hand, is more likely to **make the Natives Christians than any other Mode?** *Rev. S. Hinds, D.D.*

Certainly I do. I am very far from wishing to undervalue Missionary Labours in barbarous Countries; in New Zealand especially great Benefit results from those Labours; but there can be no Doubt that whatever Advantage there is in a Missionary Station up to a certain Point, its Benefits are limited. A Missionary Station will spread Christianity immediately about it; but when you come to contemplate the Civilization of a whole Country you must look for a stronger and more effective Measure. **What the Savage wants, is to have before his Eyes the Example of a civilized and Christian Community.** Take, in proof of this, the Instance of a Savage who leaves New Zealand, and visits England; he walks about, enters into our Houses and our Streets, and makes himself familiar by actual Inspection with the State of civilized Society. No Instruction you could give that Man, no teaching, would ever otherwise make him acquainted with it. You might send civilized Men to describe to him the Mode in which he may build his House and cultivate his Land, and you may send Instructors to give him Notions of the Arts or Political Economy, but he never would understand them. Something of the same Sort may be expected with regard to their Christian Progress. They must of course more clearly understand what a Christian Community is by living in one, and seeing it, than merely by being instructed in the **Principles and Doctrines of Christianity.** I think the New Zealander has arrived just at that Point where he wants the Assistance of a Colony to carry out the very commendable Efforts which have been made. A Colony and Missionaries there should be; for I am far from wishing that the Colony should be a Substitute for Missionary Labour; I think that the Time has come when Missionary Labour requires the further Exertions of a regular Christian Society. The Difference between the proposed Plan and the Continuance of the Missionary Stations without establishing a Colony is this; the Missionary Stations must become larger and larger, and must in Time grow into Christian Colonies; but how will they grow up? They will grow up while the lawless Habits of a different Description of Persons are interfering with the Christian Example set by them on a small Scale, and who, I believe, at this Moment are doing Ten Times as much Mischief as the Missionaries do Good.

Who do Ten Times as much Mischief as the Missionaries do Good?
The lawless Settlers.

You are not to be understood to be one of those who think that Christianity is not one of the best Means of bringing People to Civilization?

I decidedly think it one of the best Means. I should be hopeless about the Civilization of the Country without it. I wish the great Instrument now to be employed to be a Christian Colony; and, in accordance with this View, a very ample Religious Provision has been made for the Colony, and, what perhaps to some may appear superfluous, even a Bishopric is proposed.

The Bishopric is not enacted, but Permission only given that an Application may be made for a Bishop?

Just so.

That Clause merely gives the Power of asking for a Bishop, which might have been done without it?

The Object of the Clause was to disclaim on the Part of the Association the Right of appointing the Bishop, which Right belongs to the Crown.

Simply to make it an Episcopalian Establishment, at the Head of which, as in England, is the Crown?

Yes.

Do you consider that the Rights of the present Settlers, and especially the Missionary Stations, will be interfered with by your proposed Bill?

It certainly is not the Object of this Bill; no Interference will take place at all, either with the Missionaries or the other Settlers, unless the Missionaries or those other Settlers wish to share in the Privileges which will be granted to the Colonists; it is not intended to force them under the Laws for the Government

Rev. S. Hinds, D.D. of the Colony, but it is obvious that they will be glad to avail themselves of the Laws and Government of the Colony.

Do you understand that the Missionaries do now object to your proposed Plan?

By no means. We have had no actual Report from them since the Plan was proposed, but the Letter which is appended to the Official Documents I collected and published shows great Desire for some Interference from Government; and that other Letter which I read To-day confirms this Impression. I do not see why they should object to a Colony, and desire a Government in any other Form.

Have you not understood there have been some Pamphlets published by them, objecting to the Colonization of New Zealand?

Not by the Missionaries themselves, but by the Members of Missionary Societies. The Missionaries there, as far as they have furnished any Documents, are decidedly Witnesses in our Favour.

Do you know the Ground upon which the Church Missionary Society object to your Plan?

I cannot say that the Church Missionary Society object to it, but the Secretary of the Church Missionary Society has individually written against the Plan.

Are you aware of the Grounds of his Objection?

He supposes it will endanger the Missionaries, their Properties and Lives. I believe the Grounds which he takes are these, that when the Natives find their Land passing away into other Hands they will become suspicious of the Missionaries, and suppose they have connived with the Colonists in getting Possession of the Lands, and that in that Way their Usefulness will be endangered, and perhaps their Existence in the Colony.

In whom do you consider the Sovereignty of the entire Tract which is the Subject Matter of Legislation at present existing?

We have not fixed on any particular Part of New Zealand, and there is not one Sovereignty at present over the Island, unless it be allowed to be vested in the Queen; because the Island is broken up into separate Chieftainships, each as independent of the other as of Great Britain.

The Sovereignty is in numerous Hands?

Yes; and they appear to have no confederate Government, to have nothing like a Commonwealth; the Chieftancies are quite independent one of another.

You do not hold the Sovereignty to be in the Queen of this Country?

I should say so; but the Bill does not affirm it.

If the Bill does not, how are we to legislate upon the Subject?

The Bill supposes that the Natives have the Sovereignty.

Are you not arguing in a Circle if you call for Legislation without this Country having the Right of disposing of the Sovereignty? How can the Lords, the Commons, and the Queen of England dispose of the Sovereignty to the Society you represent if it has not any Power to do so?

The Difficulty I conceive is what the Government has occasioned by allowing a Flag to be given to the New Zealanders.

Was it an Acknowledgment or the Grant of a Flag?

They had not a Flag before it was given to them; a Choice of Flags I think was given to them; Two or Three Flags were sent them, and they were allowed to choose which they pleased.

Telling them they had a Right to a Flag, and that they might choose their own Colours?

Yes. May I be permitted to make a Remark on a Subject on which a Question was asked. If the Reference to the Government is likely to cause any Delay in bringing forward the Measure, I would venture to suggest, that the Question as to the Sovereignty being in the Queen or the Natives will not affect our Bill; we are ready to adopt either View. If it is in the Natives, of course the Bill may stand as it is; but if it should be decided that the Sovereignty

reignty is in the Queen, we should be quite ready to adapt the Bill to that View, and, in fact, it would rather facilitate the Objects of the Bill. There would be serious Inconvenience from Delay; and I would therefore suggest that the Question should be left until the Bill comes in course before the Attorney General, that he would make his Remarks upon it. We should be ready to insert any declaratory Clause to render it conformable to the Wishes of Government.

Rev. S. Hinds, D.D.

What Provisions are contemplated for the Natives whose Lands shall have been ceded?

The Natives whose Lands will be ceded will be amply provided for. The Provisions in the Bill relate, in the first instance, to the securing the due Administration of Justice. By looking through the Bill it will be seen that, in the first place, the Oath which is to be taken by the Commissioners, who are to be the Governors of the Colony, contains an Obligation of seeing Justice done to the Natives. A similar Oath is to be taken by those Persons in the Colony to whom the Powers of the Commissioners at home will be delegated; and an Oath of the same Purport is to be taken by the Chief Justice of the Colony. It is proposed, besides, to have an Appointment especially for the Protection of the Natives. It is proposed that a Protector of the Natives shall be appointed; and, in order that this Appointment may be put upon the fairest Footing, the Right of appointing him is to be taken out of the Hands of the Commissioners, and vested entirely in the Crown; the other Appointments, with the Exception of the Bishop, being vested in the Commissioners, subject to the Veto of the Crown. The Protector is to make Reports to the Crown, independently of the Governor of New Zealand; he is to be present at the Council when any Questions relating to the Natives are discussed; he is to be present at all Treaties; in short, he is to see Justice done to the Natives.

Is the Protector to be one of the Persons mentioned in the Bill as a Commissioner; may he be a Commissioner?

The Commissioners are those who remain in this Country; the Council are the Persons who represent their Authority in New Zealand. The Protector is not to be one of the Council. I do not know that there is any Provision in the Bill against it; but a Place in the Council would be an improper Place for him. It is implied, in his being entitled to be present for certain Occasions in the Council, that he would not be a Member, but would stand between the Council and the Natives. Besides the Provisions for the Natives I have named, there are certain Provisions which go in the Bill under the Title of Exceptional Laws. It is proposed to make what are called Exceptional Laws in favour of the Natives; it is a new Term, there being some Difficulty in finding a Term to express a new Principle. Those Exceptional Laws are the Laws which we must establish in dealing with the Savage, in order that the civilized Man may not take any unfair Advantage of his Experience of civilized Life and his greater Knowledge. One Division of those Laws will relate to the Property of the Natives, and to those Causes which would come before a Civil Court. As an Instance of what I mean, One Provision of the Bill is, that a certain Reserve should be made of Land for the Natives, and that that Land should be inalienable; that, supposing a Native were to sell his Land, it should be considered no more a valid Sale than if a Child were to sell it: that is an Exceptional Law. The Savages are to be dealt with as Children, so far as they require to be so treated; their Rights are protected against any Advantage being taken of them by the superior Knowledge and Experience of civilized Men. Another Branch of those Laws would relate to a more difficult and delicate Question—the dealing with them in Criminal Causes. If we were at once to apply our Criminal Code to the Savages, we should undoubtedly treat them very harshly, and I should say unjustly. They have been brought up in certain Habits, which they can only gradually get rid of; I would instance particularly their Habit of holding Slaves; they have been accustomed to have Slaves, and, like all barbarous People, to treat them as less, I may say, than Human Beings; they have been accustomed to take their Lives without any Scruple. Now, if when this Colony is established, and these New Zealanders are made Part of the Colony, a Chief should ill-use a Man who was once his Slave, or should even kill him, I should say that we

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Rev. S. Hinds, D.D. should not be dealing justly with him if we were to put the Law into execution with the same Severity and Strictness that we would in the Case of a civilized Man doing the same Act. And why? because the civilized Man would be conscious of his Crime, and the Savage would not be aware that he was committing so great a Crime; and until he does acquire that Consciousness it would be as unfair to deal with him altogether as you would with a civilized Colonist, as it would be to try a Child of Eight or Nine Years old for a Murder, and to hang him. I merely give this Case as an Illustration of what we mean by providing Exceptional Laws for the Natives who become Members of the Colony. It is not that any separate Laws will be made for them, but that in the Application of the Laws some Provision will be made that we should treat them as we treat Children; we do not put them on the same Footing in the Eye of the Law as Adults, and we must deal by Savages in the same Manner.

If it is necessary to make an Exception in the Sale of Lands to be hereafter made, in consequence of those Chiefs being to be treated as Children, how do you reconcile the System of confirming all the Sales which have heretofore taken place, when they were quite as ignorant, if not more so, than they are at present?

I may be still allowed to carry on the Analogy between the Child and the Savage. I do not think they are fully able to see the Results of their Sales in any Instance, and that Justice is done them, or not, according as we make a Bargain for or against them. I think that we should fairly administer Justice to them, if we treat them justly. It is in vain to wait till they can properly appreciate the Justice of our Proceedings; and we must in the meantime treat them as Children.

You would not think it right that an European should be permitted to purchase Land of the Natives, unless the Protector was present to see that it was a fair Transaction?

I fear that unless the Possessors of Land were protected they would very soon sell their Land, and be reduced to that State in which they would lose their Caste; the Chief would be brought to the Level of the lowest Member of New Zealand Society, and become on a Footing with his former Slave. It is desirable that we should prevent the Chiefs who have Property from being ruined and brought to Degradation; and it is on that Account we wish to reserve certain Property for them, until the Time comes that that Restriction may prove an Inconvenience to them; then of course that Provision must be annulled. As soon as they are able to judge for themselves the Restriction would be taken off; it would be an Inconvenience then; it would be unjust, when they are civilized, to continue this Restriction.

Do you think that the New Zealanders who have sold their Land have received anything like an Equivalent for that Land?

Though the Price is very trifling, I should say it is probably fully equivalent to the Value of the Land. At present the Land is very nearly valueless, and must be so till civilized Men give it a Value. At present, probably, it is worth no more than it sells for; but we buy this Land from them, and make it valuable; and by doing that we confer a great Boon upon them, for we increase the Value of the Land also which we have not purchased from them. I have not the least Doubt that after the Colony is established, and the first Purchases of Land made, future Purchasers of Land from the Natives will have to pay more for it; it will make their Land more marketable; the Presence of the Colony will raise the Value.

The Value of Land depends upon the Population, does it not?

Yes; meaning by Population the Population who can cultivate it.

Whether civilized or uncivilized, if the Island contained only 100,000 Inhabitants, Land would be of little Value?

Certainly, they being unable to make use of the whole Land.

Can you state who has the Right to the Land in New Zealand; on what Tenure it is held?

It is in the Chief entirely; his Slaves are his Property as much as the Timber; how that Right is acquired originally I do not know; but in some Instances it

it is acquired by War. One Tribe will invade another Tribe, and those not put to the Sword are made Slaves, and the Land becomes the Property of the Conqueror. Rev. S. Hinds, D.D.

Do you know what is the Claim a Man has to be a Chief?

I believe it is hereditary. The Masters look on themselves as of a higher Caste than the Slaves, but there is not in New Zealand, strictly speaking, a separate Caste; it is produced by Conquest in War.

Does not the mere Property of Land give a Title to become a Chief?

It may.

Are not some of the Missionaries considered Chiefs in consequence of their Possession of Land?

I am not aware whether that Title has been applied to them, but I suppose they would be Chiefs in consequence.

Have not some of the Chiefs sold almost all their Land?

Yes; and I suppose the Land purchased for this Colony will be the whole Property of a Chief. He would give up his Land, and we should reserve a Portion of it for him afterwards, that he may not become destitute.

You do not believe that the Prime Chief is made such by the Election of the Tribe, do you?

No, I believe not.

Have you any Notion what Proportion of Number there is between the Slaves and the Free?

I do not know at this Moment, but it must depend upon the Wars; they acquire their Slaves by War.

Of the 100,000 People who are said to inhabit the Northern Island, do you suppose a large Proportion must be Slaves?

I suppose so, but I have no accurate Account.

Do you think they constitute Nine Tenths?

I cannot say, but I think that is not unlikely.

Suppose they are retaken by their own Tribe, do they get back their Land?

Then they recover their Rights; but in the Case of one Tribe enslaved by another they lose Caste and Property.

Have you any Provision in this Bill for those Natives without the Pale of the Colony?

There is no express Provision made beyond the Provision for the Administration of Justice. We have, of course, a general Provision for them, in the Example which the Colony will afford. This Example will tell on the Natives without the Pale of the Colony, though not to the same Extent as on those, of course, who are naturalized as Members of the Colony. We look upon the Colony as a Means of civilizing the whole Country, and an Instrument, especially, of the most important Branch of Civilization, the Diffusion of Christianity amongst them. We have no direct Provision, indeed, in the Bill, for extending the Benefits of Christian Teachers throughout the Island; but there can be no Doubt that a flourishing Christian Colony will have that Effect; there is a better Chance, at least, of Religion being diffused from the Colony, than if there was no Colony there. The Bishop also, whose Appointment has been sanctioned by those who have come forward as Colonists, is an Appointment which has been made particularly with a view to the Benefit of the Natives. It is supposed, by having a Person of high Station and Character in the Colony, that, besides the general Effect of the Example of the Community, he will carry with him that Weight which Persons in high Station and of high Character naturally carry amongst a rude People, and that they will, many of them, be more likely to attend to Christianity when they perceive an Office of that Sort connected with it, than they would merely from the preaching of the Missionaries. But the most important point of view in which I should put it is, that he is a Person who from his Character and Station is likely to be trusted in this Country, and to become the Channel of any Exertions that may be made from Societies or Individuals in Great Britain for extending to the Natives without

Rev. S. Hinds, D.D. the Colony the Benefits of Christianity. I should suppose an Office of that Sort would attract a good deal of Liberality in the Country to New Zealand, which would not be confided to any other Hands.

Is it likely that the Native Race will become extinct, or what Result do you anticipate from your proposed Colony?

In one Sense I think it is very likely that the Native Race will become extinct; that is to say, that after some Years no pure New Zealander, no Man of pure New Zealand Blood, will be found in New Zealand, and this may be called an Extinction of the Race. What I anticipate is, that the Race will become extinct, not by the Extermination of the New Zealanders, but by their Blood mixing with that of the Whites. As the New Zealander increases in Civilization, he will intermarry with the Whites, but, as the Whites will greatly outnumber the New Zealanders, European Blood and Complexion will prevail. It will be like the Tinge given by the Moorish Blood to the Spaniards, and not an Extermination of the New Zealanders. This, I conceive, is the Result to be anticipated; and it is likely to take place the more rapidly because the Complexion of the New Zealanders is not so far removed from the European as that of the Indian or the Negro. In this Sense the Race may become extinct in a few Generations.

What is the Nature of the Commission, and its Power?

What is proposed by the Commission is merely a provisional Government, a Government for the Colony, to last so long as shall be necessary to set the Scheme on foot. It is proposed to delegate to these Commissioners the Power of making Laws, the Crown to determine the Extent of Delegation; the Appointments; in short, the Management of all the Concerns of the Colony; that Power would be delegated by them to a Council in New Zealand, but the Responsibility would rest with the Commission here. These Powers so asked for, of course must be sufficient for the Commission to carry into effect the Bill; but the Bill has been carefully drawn up with a view to the due Limitation of these Powers, in every Instance restricting them as narrowly as is consistent with the Efficacy of the Commission. Whatever the Powers are, it is only required that they should be exercised for Twenty-one Years; and the Association would not at all object, if it should seem desirable to have the Time shortened. I do not think myself that a Term of less than Twenty-one Years is likely to be sufficient, but if it should seem likely to Parliament, the Association would very readily consent to a shorter Term. At the End of that Term the whole Government of the Colony would revert to the Crown.

What is the Term in the Case of South Australia?

There is no Term of Years. I think the Provision of the South Australian Bill is, that when the Colonists amount to a certain Number they shall have a Legislature of their own. In our Bill there is a Limitation of Years.

They are not formed on the same Principle: the South Australian Company purchase Land from the Government; you propose to purchase it from the Natives?

The great Difference is, that the Appointments in South Australia are in the Crown.

They do not go upon the Principle of your Association, which is to have no Benefit, but which is acting for the Settlement of the Colony?

Yes; so far the Two Associations differ.

The Difference of the Two is this, that in the South Australian Company they purchased the Land from the Government of this Country, whereas you propose to purchase the Land from the Natives?

I believe in Australia there was no Right recognized as existing in the Natives; but as far as the Sale of those Lands goes,—I mean the Application of the Purchase Money to the bringing out of Labourers, which is a most essential Feature of the South Australian Scheme,—so far we proceed upon the same Principle.

You spoke of Responsibility; what Responsibility will the Commissioners be under in this Country?

They are checked in various Ways. In the first place, they will have to make

make most accurate Reports; perhaps more accurate than will be found convenient; for they will have to enter every Letter and every Vote where a Disagreement takes place; they will have to make these Reports yearly to both Houses of Parliament, and to receive similar Reports from the Council in New Zealand, which will form Parts of their Reports; besides which, they are compellable by the Bill to send in Reports whenever they shall be called upon by one of Her Majesty's Principal Secretaries of State. Add to all this, that almost every Power that is allowed them has a Limitation put upon it. They have the Power, for instance, of making Laws, but it is not a discretionary Power; they are obliged to make those Laws agreeable to the Provisions of the Bill. Again, no Law is valid until it has received the Sanction of the Crown. They have the Power of making Appointments, as it is called; but it amounts only to this, that they recommend the Appointment, and the Crown either rejects or approves of it, as it sees fit. This Right of Veto in the Crown brings the Power of the Association virtually to this,—that they have the Privilege of originating all Measures and recommending all Appointments.

There is no pecuniary Responsibility upon the Commissioners?

They are by the Bill expressly exonerated from all pecuniary Responsibility.

Suppose they should hereafter act in direct Contravention to the main Principles of the Act, what is their Responsibility then?

There is no Penalty annexed to it; there will be of course a general Responsibility from Men not liking to have their Characters exposed, and more especially exposed before Parliament; but I conceive it would be competent for the British Parliament to interfere, and to legislate for any specific Case.

There is no Power of Removal in case of any Breach of Duty by a Commissioner?

No Power in the Crown originally; there is a Power in the Body requiring to be sanctioned by the Crown, but no Power originally granted to the Crown; the Power is in the Body with the Consent of the Crown.

Was not one of the Objections to your receiving a Charter that there was no pecuniary Responsibility?

That certainly has been objected to us. We have been between Two Classes of Objections, the one Class objecting that we ought to have a pecuniary Responsibility, and the other objecting that we were contemplating some pecuniary Advantage from it. As the Bill now stands there is no pecuniary Qualification for a Commissioner; but I will venture to say that it will not be inconsistent with the Views of the Association, or at all objectionable to them, that the Commissioners should be excluded by the Bill from all pecuniary Advantage.

Not receiving Salaries?

They will not receive Salaries as it is; but what I mean is, that they shall not have a Right to purchase any Land in the Colony. According to this Bill a Commissioner may be a Proprietor of Land in New Zealand, though the Possession of Land there is not made a Qualification; there would be no Objection to depriving him of this Right, and enacting that he shall not be a Proprietor of Land in New Zealand.

To put an extreme Case; suppose the Commissioners sold the Chief Justiceship, or the Governorship, or any other Office, would there be any Penalty upon them for so doing, under the Provisions of this Bill?

There is no Penalty, so far as Fine or Imprisonment goes; but it is a Case in which the Penalty of public Exposure may be supposed to be enough.

Those Appointments must be confirmed by the Crown?

Yes. The Commissioners are allowed a Right of Appointment, subject to a Veto on the Part of the Crown; it is nothing more in effect than the Power of recommending,—the Privilege of exclusively recommending. It is evident that unless a Privilege of that Sort were granted,—for I will not call it a Power,—the Commission would be inadequate to the Purpose for which it is constituted.

Rev. S. Hinds, D.D.

Have the goodness to state why?

It would be transferring the Responsibility to the Crown. For instance, suppose an improper Appointment were made of a Chief Justice; neither the Crown nor the Public could say to the Commissioners, "You are blameable for it;" the Commissioners would reply, "It is not we who have done it, but the Crown." If an improper Law were made, unless the Commissioners had the Power of originating that Law, the Blame would not fall upon the Commissioners, but on the Government. It is the lowest Scale of Power which can be claimed for a Commission of this Kind, and the Bill has been carefully framed for the Purpose of taking the lowest that can be claimed.

The Government has not the Power of forcing the Company to take any Proceeding in the Manner they had formerly under the East India Company's Charter?

No; the originating of all Measures is claimed for the Commission; that is, I think, as little as we can claim for it; but there is a Veto on every thing allowed to the Crown, and in some Cases the Power is altogether vested in the Crown; it is so in the Appointment of the Bishop, and it is so in that of the Protector of the Natives.

Supposing England made a Treaty of Peace with any Foreign Power, should you consider that the New Zealand Company would be bound to that Treaty?

Decidedly; we are still subject to the Crown.

You have said that the Right of disposing of the Land rests entirely with the Chief; is not the Consent of the Tribe necessary as well?

I am not sufficiently acquainted with that Part of the Subject to answer that Question.

Has not every Person belonging to the Tribe a pecuniary Interest in the Land?

That is very likely, but I am not certain of it; there are certain Forms observed in the Transfer of Land; what those Forms are I do not know; but I suppose, when our Colony is settled, that it would be necessary to have some Understanding as to what Forms are and what Forms are not essential, that it must not only be New Zealand Forms, but New Zealand Custom, as far as it is established by an Understanding between them and us; otherwise we should be subject to Difficulties of the same Kind as that which the Bill proposes to meet by the Appointment of a Commissioner of Native Claims—a Difficulty about the Tenure by which purchased Land is held.

You are not quite certain in whom the Ownership of the Land vests entirely?

I am not certain whether it is in the Chief alone, or the Chief with the Consent of his Tribe.

You spoke of Savages as being incapable of any civilized Arts, and hardly able to emerge from that State; is not it rather striking that the New Zealanders are superior to Savages generally in this respect, that they take Instruction more aptly?

They are very apt, and I have no Doubt, with the Example of civilized Life before them, they would very soon become civilized. Many Circumstances may contribute, too, to hasten this Result; their insular Situation is one. They are not Savages who can fall backwards and backwards upon their Woods; the New Zealander is hemmed round by the Water, and must come across civilized Life either for Good or Evil. Unfortunately he is now exposed to a bad Influence of that Kind, for the Sailors are among his Corruptors; but with the Advantage of a civilized Community he has a great Aptitude for Civilization. I have no Doubt the Process will be very rapid. At the same Time I look for a Result which may be called the Extinction of the Race, that is to say, that the distinct Feature of the New Zealander will probably disappear, and give place in the course of Time to an European Population, marked with a Tinge of the New Zealand Blood.

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The Plan set out in your Bill is, that you are to have the Sovereignty and Possession of Property only to the Extent that you purchase it; and in Part of the Country over which you have not purchased the Sovereignty you will have no Sovereignty? Rev. S. Hinds, D.D.

We claim, in the first instance, no more than the Sovereignty which can be purchased; but there is a Provision in the Bill for obtaining, by Treaty with the Natives, certain Rights for the Suppression of Crime and for the securing of Convicts.

Where you had not acquired Rights by Treaty or by Purchase, the Sovereignty would remain in the Natives?

It would. A Treaty may not go so far as to claim Right of Sovereignty, but may be made for certain Privileges in the unceded Territory, as, for example, the Right of seizing Convicts.

Inasmuch as the principal Object of this Colony would be to get rid of the lawless Proceedings of those People who come among them, how would you accomplish that if a Portion of the Country did not fall in by Agreement or by Purchase with your Colonial System; for instance, in case of War, if you recognized an existing Sovereignty in any Portion of the Country, how could you prevent a French or American Privateer coming and taking refuge in the Harbours of those Native Sovereignties, which by your Proceeding you would have acknowledged?

I conceive that the Question about Right of Sovereignty is not a Question for the Commissioners, but for the Government, to decide; but I apprehend that the Government would not cede the Right of Sovereignty, as far as relates to other Powers, if they gave it to the New Zealanders over their own Country, and that they would not sanction an Interference, to the Disadvantage of our Colonists, on the Part of any Foreign Power who might propose to make a Treaty. We expect by Treaty with the Natives to exercise a sufficient Jurisdiction to prevent Crime, for the Natives are alive to the Injuries inflicted upon them by those lawless Characters, and they would be glad to throw themselves on the Protection of a Colony, which would not further interfere with them than would be necessary to prevent Wrong being committed in their Territory.

Any one Individual holding out would create a Refuge for all the disorderly People that might come there?

Yes; and that, I should think, would counteract the Evil at once. If any one Chief should have a Number of these Vagabonds driven into his Territory, he would in Self-defence throw himself upon the Colony.

You do think he might derive a dishonest Benefit from his District being thus employed?

I conceive the Mischief will be so much greater than the Benefit derived, that he would hardly seek it; and if he did, he would necessarily procure a Crusade against himself on the Part of the other Tribes, which would be a Check upon him.

Supposing it to be expedient, or, as it is stated, to be absolutely necessary, to establish some Sort of Authority in those Islands, what is the Advantage to be derived from Authority under an Association, that would not be better obtained by a regular Settlement on the part of the Crown, in the Manner in which all the Colonial Settlements of the Crown have hitherto been made, with the single Exception of the Case of South Australia?

There are several Advantages. I think I should put foremost the Fact that it is a Mode of Government which those who have hitherto proposed themselves for Colonists seem decidedly to prefer, and with Reason; for supposing the Colonial Office to be willing to do everything to promote the Interests of the Colony, it cannot be expected to have so much Leisure for the Examination of the Questions respecting each individual Colony. I believe that at present the Colonial Office has to superintend about Forty Colonies. Now it is almost impossible that the same Attention can be given to the minute Concerns of a new Colony by the Colonial Office, under those Circumstances, as by a Commission who will have no other public Duties but the Administration of that single Colony. The general Feeling of those who have come forward as Colonists is, that that is the best Mode of forming a Colony. In another

Rev. S. Hinds, D.D. point of view it may be said that the Colonial Office have hardly the Power of doing that which is proposed to be done under this Commission. If the Colonial Office undertake it, they can hardly expect that the Colony will allow themselves to be taxed in the same Manner as it would when it is governed by a Commission which may be considered as representing them. There are many Expenses which Government, if it undertook the Founding and Administration of the Colony, could not look to the Colony to provide, and which I think it is very doubtful whether it would obtain Money for from the British Parliament. It is doubtful whether, under the Colonial Office, the Colony could be provided with an Episcopal Establishment. It is doubtful whether the religious Provisions, generally, could be carried into effect by the Colonial Office as well as by a Commission.

In your Communications with the Colonial Office, is it admitted that a Colonization by way of Association is preferable?

I do not know that they admit that. I am not aware of any Objection to the Plan of a Commission. Government has, to a certain Extent, allowed it in the Case of South Australia; but there are some Differences between our Commission and that.

Do you know whether the South Australian Plan is successful as far as it has gone?

I believe, so far as relates to the Commission, it is thoroughly successful; whatever may be considered as otherwise relates to Matters which are under the Control of the Government.

The Swan River Settlement was by the Government?

Yes.

That was a total Failure?

Yes, that was a total Failure, in consequence of the Want of Regard to the true Principle of procuring Labour for the Colony. South Australia had the Advantage of that Failure, and, by adopting a different Plan, has succeeded certainly so far as that Part of the Scheme goes.

Do you not consider that it is no longer a Matter of Choice with this Country whether there shall be a British Settlement in New Zealand?

Decidedly.

That it becomes a Question in what Mode that Colony shall be established?

Precisely so. It appears to be a Question between establishing at once a complete Society,—a Society perfect in all its Parts, and allowing Factories to spring up, and other imperfect Settlements, without any Connexion, and with this Risk, that they will not have the Means of repelling Aggressions from the native Tribes, owing to their being small insulated Bodies. But in the Case of there being One large Colony, that would make it too obviously impracticable for the Natives to attempt on any Occasion to attack and overcome it. It is a Question between weak Factories and a powerful Society planted at once, which it would be absurd for the Natives to think of assaulting.

What would be the Consequence suppose you encourage the Natives to set up their own Authority; you would require a Ship of War or some Naval Force to be constantly stationed there for the Protection of our own People?

One can hardly say what would be the actual State of Things; they would still want all that binds together the Elements of civilized Society; there would be no Principle of Combination; and as for Government, I do not see how a Ship of War could effect this Object.

Do you think the Settlement would become too large to be checked and controlled in that Manner?

Decidedly; it is enlarging, and the more Provision is made for Security and Government, the more it will be increased. If you send a Ship of War and erect a Fort, the partial Security afforded would tempt more Settlers, and you would soon have to build Half a Dozen more Forts.

If you leave them entirely alone, will not the Consequence be, that the Europeans who go out there irregularly will cheat the Natives out of the whole of their Land?

There appears to be every Chance of that; and it is important that some Step

Step should be taken early to stop the Sale of Land; because, if this Bill is likely to pass, a great many may take advantage of the Chance of its passing, and purchase Land at a reduced Rate in New Zealand in order to enjoy the Benefits of this Bill.

Rev. S. Hinds, D.D.

Should you under this Bill suppose that the Association would be obliged to recognize Titles of that Description?

They propose to recognize Titles of that Description, provided those who hold the Land will pay a sufficient Sum to put them on an equal Footing with the Colonists. It would be manifestly unfair that the Colonist should pay 15s. or 20s. an Acre for his Land, when that is not the Price of Land, but the Price of certain Advantages which the Colony offers, and that the Settlers anticipating the Benefits of the Colony should pay 1s. an Acre for the Land, and get all the Benefits.

Do not you apprehend that your Association will want the Support of some Military Force to make it respected?

Undoubtedly Military Force will be required, not so much against Foreign Invasion, but by way of Police; and the Establishment of a Military Force, and also some Naval Power, is contemplated in the Bill.

Is it contemplated that the Expense of that is to be defrayed by the Association?

Yes, the whole of it.

It is to cost Government nothing at all?

It is to cost Government nothing at all.

Do you think there will be a sufficient Demand for Land to enable you to meet such a Charge?

There can be no Doubt about it, if we may take as a Precedent the Success of the South Australian Scheme; but the Revenue is divided into Two Portions, one derived from the Sale of Lands, and the other from some Imposts or Taxes which will be laid on Articles coming into the Harbour. In the first instance the Sale of Lands of course will not produce Money enough to meet the Expenses, and for the present therefore it is contemplated that a Loan should be raised, Security being given on the Revenue to arise from the Sale of Lands and from the Imposts.

Have you any Reason to suppose that you can raise that Loan?

We can certainly raise 100,000*l.*, or more if necessary; and it is proposed that no Colonists start from this Country until that 100,000*l.* be raised.

You speak of Port Dues; how can you get them from the Americans?

They would not be allowed to land their Merchandize without paying them.

How would the Commissioners have a Right to prevent them?

That would be a Question, not for the Commissioners of the Colony, but for the British Crown.

Are you to be understood that you consider that the British Crown has already a Right of Sovereignty over the whole Country?

The British Crown used to be considered as having a Right of Sovereignty; that is to say, the British were the first Discoverers of the Islands; and that has been considered heretofore a Ground for Sovereignty.

Were not the Dutch the first Persons who discovered New Zealand?

I think Captain Cook was the first who discovered it, so as to give the Crown a Title to it. Tasman may have first seen it, but Captain Cook formally took possession of it for the British Crown.

Suppose those American Ships which have been alluded to do not choose to pay Port Dues, and in consequence carry their Trade to some other Part of the Island not in the Colony, do you consider that you have the Means of preventing that?

Yes. Supposing that the Sovereignty be not claimed for the Crown, we have drawn up our Bill with the view of enabling us to make Treaties with the New Zealand Chiefs. One Treaty I adverted to just now with regard to the Right of punishing Criminals. I do not mean Criminals of the New Zealand

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Race, but British Subjects who are Criminals. By these Treaties we are to obtain such Rights over other Districts as may be found convenient, and among other Rights would be, no Doubt, that of imposing Port Dues.

It will be the Intention of this Association, as far as they are able, to control the Trade throughout New Zealand?

Certainly.

A British Merchant would not be able to trade with any Port in New Zealand except under such Regulations as the Association shall allow?

That is what we wish to effect.

You are under no Apprehension that the Charge of Port Duties there would drive the Whalers to some of the other Islands in the Pacific?

No, I think not; the Advantages would be so great of dealing with civilized Persons, I should hardly expect they would go to any Ports of Savages; the Supply of better Provisions, and other Conveniences, would be worth more to them than the Value of the Duties.

Are you not aware that there are other Islands in the Pacific where the Whalers and other Ships can get Refreshments?

Yes, and perhaps Refreshments equal to those now obtained in New Zealand; but the Establishment of a Colony will make the Refreshments to be obtained in New Zealand much more abundant, and of a better Kind.

Suppose there should be any Chiefs who should not please to enter into any Arrangement with the Commissioners, their Districts might be made the Receptacles for Goods brought in without Payment of Duty?

Yes; but then the Articles imported into New Zealand without Duty would not be allowed to be carried into any Part of the British Territory, or into any District with which a Treaty had been made to that Effect.

Has it not been found in civilized Countries that when Articles are wanted they may find their Way in spite of Regulations?

We should be precisely in the Situation that other Countries must be in respect of Custom House Regulations. But I hardly contemplate any Repugnance on the Part of the Native Chiefs. It would be wise in all Instances, and no Doubt it would be a Principle acted on, that in Treaties with the Native Chiefs it should in some Way or other be managed that they should have some Advantage, that we should not make a Treaty merely for our own Advantage.

Do you not suppose there would be a great Repugnance in a British Merchant to pay Duties which he could avoid in other Places?

I think not, because he would have Advantages greater than the Value of the Money he would pay for them.

Your Policy would be to set the Duties very low?

Yes.

You propose that the Profit on the Purchase of Land should be applied to Colonial Revenue?

The Revenue would consist of a Land Revenue, and of an Ordinary Revenue; the Loan is a Sum of Money raised on the joint Security of the Land Revenue and the Ordinary Revenue. 100,000*l.*, for instance, is lent by the Banker; for the Repayment of this the Commissioners have no Security to give but the Prospect of the Colony succeeding. The Revenue arising out of the Sale of Lands we call the Land Revenue, as distinguished from that which is called the Ordinary Revenue.

The Expenses of the Government are to be paid out of the Ordinary Revenue, which is to depend upon the Taxes and Customs raised in the Colony?

Yes; but there is a Provision which permits the borrowing from one Fund to another. The Accounts of the Two Funds are to be kept distinct; but if there should be an Overplus in one or the other, there would be a Power to take the Overplus of the Land Revenue to supply the Deficiency in the Ordinary, and vice versâ.

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In the first instance the Proceeds of the Sale of Land are to be applied to the Payment of the Interest on the Loan, and to carry out the Settlers? *Rev. S. Hinds, D.D.*

Yes.

The Expenses of the Government are to be met by Taxes and Customs levied upon the Spot?

Yes.

If those are deficient you are to apply to the other Head?

Yes.

But you depend upon the Taxes to carry on the Government?

Yes; we reckon upon the Government eventually being supported by those Taxes. In the first instance it would be impossible to raise a sufficient Sum for the Purpose; and the Object of the Loan is to set the Colony afloat.

The Revenue would be principally on Wine and Spirits?

Principally, I apprehend, at first: as the Colony increases the Wants of the Colonists will be very different from the Wants felt by Savages, and then Articles will be imported which have never yet found their Way into the Island, and there will be a Duty imposed upon them.

As the great Grievance in the Country is the Number of Grog Shops and Spirit Dealers, what is to prevent their setting up those Shops on Territories that do not belong to you, or do not recognise your Colony?

I think we may rely a good deal upon the Assistance of the Chiefs themselves, for they are a remarkably temperate Race. The Habit of Drunkenness has been introduced amongst them; but naturally they have a great Abhorrence of Spirits, and we have a singular Instance of that in the Establishment of a Temperance Society amongst them. There is a Chieftain,—I am sorry I cannot refer to his Name, or the Part of the Country in which he is,—but the Statement will be found, I think, in the Book published by the Association; this Chief found the Effects of the Introduction of Spirits to be so ruinous to his People that he, and I think some other Chieftains, formed an Association for prohibiting the Importation of Spirits altogether, and I believe they succeeded in keeping them out.

Your Treaties would not be meant, according to your Bill, to regulate Trade, but to enable the Commissioners to regulate and settle all other Matters affecting the Relation between the Inhabitants of the British Settlement, or other British Subjects, and the Natives?

Yes; that Clause refers particularly to the Matters about which a Question was proposed just now of regulating Duties.

The Words are, "settle all other Matters affecting the Relations between the Inhabitants of the said British Settlement, or other British Subjects, and the Native Inhabitants of any Parts of the said Islands"?

It is worded generally.

You wish by this Bill to have the Power of controlling all British Subjects who should settle upon their Land, or in any Way touch there?

Yes.

And unless you obtain, by Treaty or otherwise, this Power, your Object in the Settlement would partially fail?

Certainly; if Government were to decide that the Sovereignty is solely in the Crown, it would relieve us of a good deal of Difficulty, and those Regulations would be unnecessary; but we have framed the Bill to meet the most unfavourable View of the Case.

The Object of the Association is not only to purchase Territory within the Island for the Purpose of forming a Settlement, and to have British Laws paramount within that Territory, but to extend their Interference over the whole Island?

Yes, certainly.

One of the Provisions of the Bill is, that within the Territories ceded to the Company personal Slavery shall cease?

Yes.

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Is not that likely to induce Slaves from other Portions of the Island to seek Refuge within your Settlement?

I do not think we should be justified in receiving the Slaves from other Parts of the Island.

Would it not be a Question, if a Slave came into a British Colony, whether he would not be instantly free?

I think in this Country certainly it would.

Would it not be so in any Part of Her Majesty's Dominions?
Perhaps so; certainly our Object is to extinguish Slavery.

Would not that be likely to bring you into hostile Collision with the Chiefs who wished to retain their Slaves?

That must be settled by Treaty; but the Recognition of Sovereignty in the Crown would relieve us from great Difficulty.

The Effect of that would be to abolish Slavery entirely?

It would, certainly; and in that Case we should be obliged to adopt the Principle we have adopted in the Exceptional Laws. It would not do, at this Moment, I am persuaded, to send out an Abolition Act.

By your proposed Bill a local Government is to be settled, with a Council of Three Persons?

With a Council of not less than Three. The Government will be in the Commission here; the Council are to represent their Authority, and the Delegation of Power is subject to the Control of the Crown.

Are you aware how long it will take for the Commissioners in England to receive an Answer to any Despatch they may send?

They would not pretend to execute the Laws.

It would therefore be necessary that they should depute their Authority to Persons in whom they could place very great Confidence?

Precisely so.

The real Power of Administration would rest with the Government in the Colony?

Precisely so; and the Commissioners claim the Power of Appointment, leaving to the Crown the Veto.

There is no Person who can be made responsible; the Responsibility is vested in a Body?

Yes; but it would be necessary of course to have a President of that Body. The Council is to consist of not less than Three Persons. We wish to see the Character of the Colonists before the Number is determined. The Number might be made to depend on the Number of the most respectable Colonists.

Are there proposed to be local Courts erected, with Judges?

Yes.

There appears to be no Qualification stated for those Judges; that they are to be Barristers, and so on?

That is not provided for; but they must be competent Persons, and the Crown has the Control of the Commission. They must be competent Persons; if the Crown is not satisfied with the Appointment the Commissioners will be obliged to name somebody else.

They have Power to raise a Land Force and a Marine Force; in what Manner should you be able to manage them?

There must be a Chief Military Officer, with as many under him as the Amount of Force may require; and a Chief Naval Officer.

By what Law would you regulate them; would you execute Military Law?

They would be subject, I conceive, to the same Laws as a Military Force sent out to a Crown Colony; it is merely that we should have the raising and paying of them, and the Appointments.

Military

Military Jurisdiction is generally exercised by Courts-martial, consisting of several Persons of high Rank; unless your Body was very large you could not have Persons of sufficient Rank for Courts-martial? Rev. S. Hinds, D.D.

We should not have many, certainly.

Are you aware that the Marine of the East India Company was abolished for its Insufficiency?

The proposed Force for which this Loan is required would be very limited; it would be in fact nothing but a mere Police. The Object of a Military Establishment is not so much for War or the Prevention of War, as an internal Police; and so as to the Naval Establishment.

If the Law permitted you to create an efficient Police, would not that be sufficient?

It is only a Question about a Name; it would certainly be a Police; but the other Name is more respectable, and it is likely that fit Persons might consent to take Naval and Military Appointments, who would not like them under the Title of Police Appointments.

Have the Association at all fixed on what Point of the Island they would commence their Colonization?

No, they have not. There must be a preliminary Expedition to survey those Parts of the Country that appear most eligible, and determine what is to be done.

It is provided by the Bill, that to render any Treaty with the Natives valid, it shall be sanctioned by the Protector of Natives?

Yes.

It would be necessary therefore that a Protector of Natives should be appointed before any Land can be purchased?

Yes; it would be desirable to send out a Protector of Natives at the same Time; but all the Measures contemplated rather suppose the Land purchased before any Appointment is made.

If you can purchase Land, may it not be afterwards disputed, and decided against you by the Protector of the Natives?

I think it is desirable that a Protector of the Natives should go out immediately.

Do you think he should be a Lawyer?

That is a Matter entirely vested in the Crown.

If the Protector of the Natives should be at variance with the Governor, the whole Machinery of your Government is locked, is it not?

As far as the Questions of dealing with the Natives go. The Appointment is made to secure the proper Administration of Justice towards them.

The Commissioners are to exist only for a certain Term of Years; but should you consider it just to them, or to the Colony, if the Plan should be successfully carried on, to abolish them after that Term?

Yes; I think the Object will have been accomplished when the Colony is fairly established.

By abolishing the Commission will not you destroy the Appointments of those who have held under them?

No; there is a Provision guarding against that in the 49th Clause, which enacts, "that Provision shall be made for the Satisfaction of all Obligations or Securities affecting the said Settlements, or the Revenues of the same, for extinguishing all Obligations and Liabilities undertaken by the said Commissioners in pursuance of this Act, and not at that Time discharged, extinguished, or satisfied."

Then if the Commission in England ceased, all the Powers of those appointed would continue?

Yes; unless, of course, they were removed by the Crown.

You have spoken of looking forward to very extensive Intermarriages between the Europeans and the New Zealanders; is it not the Intention of the Association to send out married Men principally?

Yes; I do not contemplate Intermarriages to a great Extent in the present Generation;

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Rev. S. Hinde, D.D. Generation ; but we shall be hardly able to provide a Colony of none but married Persons.

Is there any Intention of bargaining for the Sovereignty of the Land as to which you do not bargain for the Fee Simple ?

Not the Sovereignty ; but there is an Intention of bargaining for certain Rights.

Supposing you purchase the Sovereignty and the Possession of Half a Chief's Possession, would there be any thing to prevent an American or European buying the Possession and the Sovereignty of the other Half ?

He could not buy the Sovereignty. I am going upon the Supposition that if Government allows New Zealanders to have the Sovereignty of the Island, the Crown would still retain a Right of Sovereignty, as far as regards other Nations. I conceive that if the Crown allows the New Zealanders to be the Sovereigns of the Island, it will still consider itself entitled to interfere and prevent other Nations from obtaining Sovereign Rights in the Island.

That they have a Priority of Right to purchase ?

Yes.

That they are a Sort of Lords paramount ?

Yes. It would simplify the Measure very much if the Government would at once assert the Right of Sovereignty for the Crown ; but the Bill has been framed supposing the Case to be that which is most disadvantageous to us.

The Witness is directed to withdraw.



Archives New Zealand

New Zealand Company Coat of Arms

On 2 March 1840 the New Zealand Company in Port Nicholson - knowing full well the Crown's intentions regarding sovereignty - set up its own form of self-government.

Before arriving in Aotearoa New Zealand the Company had drawn up a self-governing constitution on 14 September 1839, which all settlers were expected to sign. Under this constitution a committee or council of colonists was appointed, of which Colonel Wakefield was president, and Dr. George Evans the next most important member. The first meeting of the committee was held on 2 March 1840 and "the flag of an independent New Zealand, made on the *Tory*," was flown above Port Nicholson (see the flag here: www.teara.govt.nz/en/object/33578/new-zealand-company-fla...).

Hobson was alerted to this 'government' by a ship's captain on 21 May. The captain had been confined at Port Nicholson in April 1840 for an infringement of its New Zealand Company laws, and had made straight for the Bay of Islands after escaping custody. Hobson was furious, characterising the actions of the council of colonists as "usurped authority" and high treason.

This image of the New Zealand Company coat of arms comes from the header of a larger file, held with other miscellaneous papers, statistics, advertisements and forms.

Archives Reference: NZC34 Box 12/ 17
archway.archives.govt.nz/ViewFullItem.do?code=22179625

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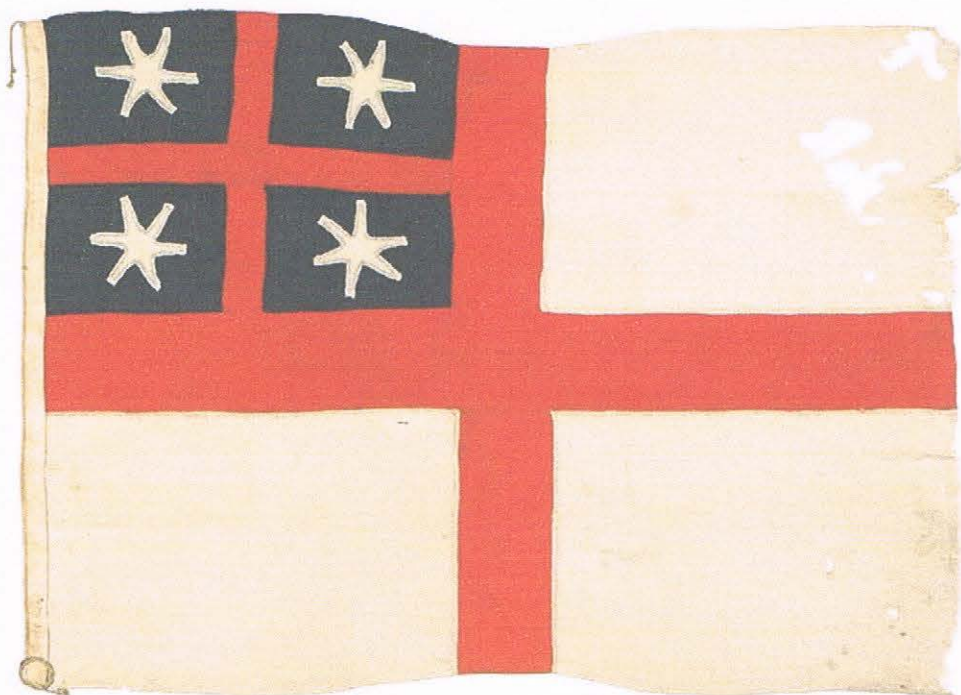
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Story: Kotahitanga – unity movements

Part of page 1 – The first Kotahitanga movements, 1834 to 1840

New Zealand Company flag, 1839



This flag was based on the one adopted by Māori chiefs at Waitangi in 1834 as a national flag and known as the flag of the United Tribes of New Zealand. It was made onboard the *Tory* during its voyage to New Zealand, and was raised at Petone on 30 September 1839. William Wakefield of the New Zealand Company referred to it as the colours of New Zealand. After the signing of the Treaty of Waitangi in 1840 Lieutenant Governor William Hobson sent an armed party to lower the flag on 30 June, and the British Union Jack flag was raised the following day.

About this item



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Reference: GH002925

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How to cite this page:

Basil Keane, 'Kotahitanga – unity movements - The first Kotahitanga movements, 1834 to 1840', Te Ara - the Encyclopedia of New Zealand, <http://www.TeAra.govt.nz/en/object/33578/new-zealand-company-flag-1839> (accessed 14 November 2016)
Full story by Basil Keane, published 20 Jun 2012

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