

C O R R E S P O N D E N C E

RELATIVE TO THE

UNLAWFUL ASSEMBLAGE OF ARMED NATIVES

IN THE PROVINCE OF

NEW PLYMOUTH.

*Presented to the Honourable the House of Representatives by command of His Excellency,
28th April, 1858, and ordered to be printed.*

A U C K L A N D :
1 8 5 8 .

Treasury, Auckland, 12th February, 1858.

SIR,—

I have the honor to inform you, that the Governor in Council having taken into consideration the various official communications which have been recently received from New Plymouth on the subject of the Native disturbances at that place, and His Excellency and the Council being of opinion that the skirmishing of the Natives on, or in immediate proximity to, the Bell Block, if not put a stop to must eventuate in a collision between Settlers and Natives, and that to allow of the continuance of such a state of things, would be at once unsafe and dishonourable. His Excellency has, upon the advice of the Council, issued the Proclamation, copy of which is herewith enclosed.

The object of the Government in issuing this Proclamation is to prevent the violation of the Territory within the defined boundary by Native War Parties, although such War Parties may not act hostilely to the Settlers.

The mere assemblage of such a party, though in itself illegal, might not justify immediate recurrence to warlike measures. It will therefore be the duty of the Magistrates in general, and of yourself in particular, on credible information that a Native War party is within the boundary, to give notice to the offenders in such wise as may appear most expedient and likely to be effectual, that they are committing a breach of the Law, and to enjoin them to retire forthwith. In the event of disobedience to such injunction the usual Depositions are to be taken, and Warrants issued for the apprehension of the offenders, as guilty of an unlawful assembly. When practicable the provisions of "The Riot Act" should be acted upon, and in that case Warrants may be issued for offenders against that Act.

The Warrants of apprehension are then to be executed if the Force at your disposal appears adequate for the purpose. In the contrary case it will devolve upon you, or, in the event of your absence or inability, upon the Senior Acting Justice of the Peace, to communicate in writing to the Military Officer in command at New Plymouth, the fact that there is armed resistance to Her Majesty's Authority, and that the Civil power is unable to enforce obedience.

In the event of any attack upon Settlers, arson, or other felonious offence, committed upon any part of the purchased Blocks, or upon any part of the Territory comprised within the proclaimed boundary, by an armed party of Natives, it will be for the Justices to consider whether the Act is one of open rebellion against Her Majesty's authority, or an ordinary crime. In the former case the common process of Law will, from the commencement, be inapplicable. In the latter these processes are, in the first instance, to be pursued as in the case of a mere entry or assemblage of armed parties within the proclaimed boundary. In both cases the same notice as I have already prescribed may be given to the Military Commander; in the former case, immediately upon proper ascertainment of the facts, in the latter, after the issue of Warrants, and sufficient proof that they cannot be executed.

You will observe that it is not intended that the Military Force should be employed to aid in the execution of the Warrants of apprehension which is a mere duty of Police. The object in issuing such Warrants is solely to test the existence of an armed resistance to Her Majesty's authority amounting to rebellion, and requiring the introduction of Martial Law.

So soon as the existence of such a state of things shall have been established to the satisfaction of the proper Civil and Military Officers at New Plymouth, His Excellency has determined upon the adoption of measures for the vindication of Her Majesty's Authority.

The New Plymouth Battalion of Militia will then be called out for actual service (an authority for that purpose having been forwarded to the Officer Commanding Her Majesty's Troops) and the whole available Military Force of the Colony will, if necessary, be concentrated upon New Plymouth.

I enclose for your information a copy of the Instructions which have been forwarded to the Officer commanding at New Plymouth.

In the event of hostilities with the Natives, the Settlers will be warned to come into Town, or to such places as may be pointed out by the Officer in command, as it will be impossible for the Government to answer for the safety of out Settlers.

Service in the Militia, if called out for actual service, is to be enforced under the Fifteenth Section of the Militia Ordinance. Should it become necessary to adopt the measure of calling out the Militia, you are to issue a Public Notification calling attention to the provisions of the Fifteenth and Nineteenth Sections of the Ordinance.

The latest accounts which have been received from New Plymouth since the course of action above stated was determined upon by the Governor in Council, tend to remove any present apprehension of difficulties arising out of the Native Feuds.

Although the case has thus ceased to be one of urgency, it does not the less appear expedient to take the precautionary measures which have been detailed to you in the present communication.

You will make known the purport of this communication to the Bench of Magistrates.

I have, &c.,

(Signed,)

C. W. RICHMOND,

The Resident Magistrate,
New Plymouth.

Resident Magistrate's Office,
New Plymouth, 6th March, 1858.

SIR,—

I have the honor to transmit a copy of a letter I this morning received from five of the Magistrates of this Province, more particularly relating to that portion of your despatch of the 12th ultimo, No. 143, containing the views of the Government on the present Native disturbances, wherein you state that, "It will be the duty of the Magistrates in general and of yourself in particular, on credible information that a Native War party is within the boundary, to give notice to the offenders in such wise as may appear most expedient and likely to be effectual, that they are committing a Breach of the Law, and to enjoin them to retire forthwith."

In accordance with the suggestion contained in the letter of the Magistrates, above alluded to, I likewise forward a copy of the memorandum of information given by certain persons relative to the carrying of arms, by Natives in and through the Bell Block.

Referring to the first enclosure, I would beg leave to observe that it will be impossible in every case to prevent Natives carrying arms unless a Proclamation from His Excellency the Governor be made to that effect; and further that without such a Proclamation it would be injudicious to proceed against the Natives until they have committed a more flagrant violation of the present Proclamation against assembling in arms than the one now referred to.

Regarding the second enclosure I may be allowed to remark that when the parties giving the information therein stated mentioned that they came to lay "Informations" I observed to them that though I was ready to receive any information from them, I could not say that any other steps would be taken further than that an enquiry would be made into the circumstances and further warning if necessary given to the Natives. I also observed that whilst the Government was prepared to vindicate Her Majesty's authority, it would not be precipitated into any hostile act. The report previously made to me by the Assistant Native Secretary, of the manner in which the Natives generally had received the Proclamation, had led me to believe that much of the conduct of the Natives complained of by the Informants, might be attributed to the injudicious conversation and behaviour of the informants themselves with the Natives; subsequent information has confirmed this belief.

I have, &c.,

(Signed,)

JOSIAH FLIGHT.

Resident Magistrate.

The Honorable
The Colonial Treasurer,
&c., &c., &c.,
Auckland.

New Plymouth,
February 4th, 1858.

SIR,—

At the recent meeting of the Bench of Magistrates, there was as you remember, a difference of opinion amongst members of the Bench as to the course which should be pursued in order to comply with the instructions of the General Government in the case of the passage of armed Natives to and fro' between the present fighting ground, and their Pas situated within the proclaimed boundary. Believing it to be a matter of extreme importance to ascertain what course we are required to pursue in such cases, in order that we may give effect to His Excellency's Proclamation, as far as was contemplated by its framers, and no further, we would respectfully request you to communicate with the proper authorities at Auckland with the view of obtaining distinct instructions for the Bench on this particular point.

We would suggest that the attention of His Excellency and his advisers should be specially directed to the fact that a rigid adherence to the letter of the instructions received, might be considered to justify us in not interfering to put a stop to the practice to which we are alluding, as the armed War Parties may be held to have complied with the notice which we are instructed to give in such case, if they move on either to their Pas or to the fighting grounds as the case may be.

We would also respectfully suggest that in order to avoid all misunderstanding as to the exact nature of the cases referred to, copies of the depositions taken at your office with regard to the passage of armed Natives through different parts of the Bell Block, should be forwarded, together with the letter requesting further instructions in the matter.

We have, &c.,

(Signed,)

CHARLES BROWN, J. P.

H. R. RICHMOND, J. P.

FRED. NORRIS, J. P.

J. STEPHENSON SMITH, J. P.

THOMAS KING, J. P.

To J. Flight, Esq.,
Resident Magistrate,
New Plymouth.

A true Copy,

(Signed,)

JOSIAH FLIGHT,

Resident Magistrate.

DEPOSITIONS.

New Plymouth,
1st March, 1858.

W. Hulke with Morrison and Semley.—State that on the previous evening (Sunday) six Natives were seen by them on the Devon line on the Bell Block and the Hua Block with fire arms, one in a state of half nudity; that when asked the reason they said it was for fighting.

Hulke with Goddard and Dorset.—That on Thursday night, fifteen armed Natives came with carts into the Bell Block from the direction of the Waitera.

Semley with Colson and Goddard.—That on Thursday afternoon three armed Natives entered Semley's house from Wiremu Kingi's Pa; Mr. R. Brown rode by; the Natives pointed to him and said he was no good and that the first opportunity they could catch him at the Waitera they would shoot him; that Mr. Semley went to Mr. Brown and told him what the Natives had said, when he replied that he would see them and give them a peach; that Mr. Semley told them, the Natives, they should not come with arms, which observation they treated with ridicule.

Hulke with Woon.—That "Big Joe," otherwise Hoara Pehoara, had been heard by Hulke on Sunday to say that if the Proclamation were carried out the Natives opposed to Ihaia would march to the Town, burn down the Kawa Pa in the Town and stop the communication.

Semley.—That on Sunday evening he saw some Town and Hua Natives at the Hua carrying arms; that one of them asked if it was wrong to do so, when we told them we had nothing to do with it, it was as Government pleased.

W. R. Hulke.—That thirteen armed Natives, headed by Moori, of Kaipakopako, had left the Paraiti Pa, passed through Waller's section, Rundle's three sections, and then followed the road to the Waitera; that Hulke spoke to them but they treated what he said with contempt; that Waller was out and only a female at home.

4th March, 1858.

Morrison.—That armed Natives still pass along the road near his house in the Bell Block; that they say they must carry their arms as the Wanganui Natives have arrived, and that may come out from the bush to attack them.