

PAPERS

RELATIVE TO ESTABLISHING

A COURT OF NATIVE LAND TITLE.

RETURN TO AN ORDER OF THE HOUSE OF REPRESENTATIVES OF 25TH JULY, 1862.

(*Mr. Weld.*)

[Return made 27th August, 1862.]

COURT OF NATIVE LAND TITLE.

MEMORANDUM BY HIS EXCELLENCY THE GOVERNOR.

1. The possibility of establishing a Court in which disputed claims to land (over which the Native title has not been extinguished) whether between Maoris themselves or between the Government and Maoris,—is a subject to which the Governor desires to call the special attention of Ministers.

If it is possible to devise any plan which is likely to be practically useful, he thinks it should be embodied in a Bill, and should be referred to in the Governor's Speech on opening the next session of the Assembly.

2. The Governor thinks that arrangements should be made to separate the Office of Land Purchase Commissioner from that of Native Secretary.

T. GORE BROWNE.

Government House, Auckland,
12th March, 1861.

MEMORANDUM BY MR. STAFFORD.

If such a Court as the Governor suggests could be established, and the Natives be induced to refer disputes with respect to their land claims to its arbitrament, the result would be most beneficial. It is to be feared that the greatest difficulty would be found to arise from the indisposition of the more powerful chiefs to submit to decisions adverse to their pretensions. The Constitution of such a Court requires consideration. Referred to the Minister for Native Affairs, and the Attorney-General, with that object.

The separation of the offices referred to in the last paragraph of this Memorandum can be carried out at once, and the doing so will be in accordance with a Resolution of the House of Representatives last session.

E. W. STAFFORD.

MEMORANDUM BY MR. WHITAKER.

This appears to me to be a question for the Native Council. I think it would be wrong to take so important a step just before its establishment as the constitution of such a Court as that referred to, the result of which, under any circumstances doubtful, will much depend on the details.

FREDK. WHITAKER.

23rd April, 1861.

MEMORANDUM BY MR. WELD.

I see no difficulty in the establishment of a Court of Appeal on land questions, if the Assembly will grant the necessary funds. I should commence by establishing a Court of Appeal, consisting of a commissioner and two Native Chiefs, at good salaries; the Court would necessarily be peripatetic and I would strengthen it by the assistance of Native Assessors whose local influence and knowledge would be of much value. I think that the jurisdiction of the Court should at first be confined to hearing appeals from the decisions of the Land Purchase Commissioner, and to the settlement of such land questions as may be referred to it by the consent of both parties. I am not at the present moment disposed to attempt more than this. I think that the immediate establishment of such a Court would throw open the way for the establishment of Courts with larger jurisdiction, but before we give a Court power to deal with all land questions, we must be in a position to enforce its decrees in all cases, or at least the Natives must have time to learn to appreciate the advantages of such a tribunal and to give it their full confidence and support; until we see some prospect of such a result—either from the well-working of such a Court as I propose or from some desire expressed by the almost universal and decidedly expressed wish of the Natives themselves, (who should be invited to discuss the subject at the next Conference), I think we should be ill advised to go beyond a Court of Appeal and reference. I concur with the Attorney-General, in thinking that this subject is one that the Native Council (if established) should consider and advise upon, but in any case the next session should not be allowed to pass over without action on this matter; the details need not be finally arranged at present, but the subject might be alluded to in the Governor's Speech at the opening of the session, in connection with a Grant of money, which I believe to be imperatively necessary for this and other Native purposes, and which I believe it will be the duty of Ministers to propose next session.

In reference to the separation of the office of Land Purchase Commissioner from that of Native Secretary, I have already expressed my strong desire that it should be done as soon as possible. Some time ago, I requested the Native Secretary to furnish me with all the information that might be necessary to aid in the re-organization of the Department, the urgent duties on which he has been since employed, involving his absence from Auckland, has alone prevented steps having been taken in that direction, but at the same time, I do not see how anything can be effectively carried out, until the establishment of the Native Council is authorised by the Home Government, or at least until their answer is received on the subject; as soon as that is received, the re-organization of the whole Department should be proceeded with, with the least possible delay. I trust it may yet be effected before the Assembly meets.

FREDK. A. WELD.

April 24th, 1861.