

FURTHER PAPERS ON NATIVE POLICY, CONFISCATION, ETC.

MEMORANDUM by the GOVERNOR.

1. The Governor thinks it necessary to reply at some length to the Ministerial memorandum of the 30th of September, stating that the Secretary of State was likely to be misled by a map which the Governor had transmitted in his Despatch, No. 130, of the 3rd of September.

2. The Governor would first point out that his Responsible Advisers have, from an oversight, forgotten that three Orders in council—not two, as they state—were substituted for the one submitted to him upon the 17th of May, all of which, to show his desire to meet their wishes, he signed on the 28th of May; and one of which (the map relating to which they have not forwarded for the Secretary of State with the others) embraced a large tract of country.

Having made these remarks, the Governor now proceeds to state his own views upon the subject of these Orders in council, and the Regulations which accompanied them.

3. On the 17th of May, Ministers laid before the Governor an Order in council which recited “That whereas the Governor in council has been satisfied that the native tribes, or sections of tribes, or considerable number thereof, in the district hereinafter described, have since the 1st day of January, 1863, been engaged in rebellion against Her Majesty’s authority: Now, therefore, His Excellency the Governor, by and with the advice of his Executive Council, doth hereby order, appoint, and declare that the said district shall be a district under the provisions of the ‘New Zealand Settlements Act, 1863.’”

The result of declaring any district within the provisions of the above named Act, was, that the Governor in Council might, from time to time,

MEMORANDUM by MINISTERS.

Ministers respectfully transmit to His Excellency the accompanying notes on His Excellency’s Memorandum of the 24th October last, and on the maps in connection therewith forwarded to them on the 28th of October, being in reply to Ministers’ Memorandum of the 30th of September last.

FRED. WHITAKER.

November 18th, 1864.

1. *Secretary of State was likely to be misled.....*

On a further examination of the facts upon which it was stated that the Secretary was likely to be misled, it may be added *must* be misled. On the 30th of September His Excellency transmitted the copy of a map of Waikato with a despatch stating that the map showed the district of country which Ministers wished to be embraced in an Order in Council, which would bring it within the operation of the New Zealand Settlements Act; but the information that the map had been replaced (as was the fact) by another which was entirely different was withheld. If it was considered necessary to send an obsolete map at all it should have been explained that it was sent—as without explanation the inevitable result would be—to confuse and mislead.

2. *The Governor would point out.....*

It would not have been surprising if there had been a mistake committed, for His Excellency has directed the Clerk of the Executive Council to retain documents which should have been returned to the Executive office to which they belong. But the fact is, that when the Governor wrote his despatch of the 3rd of September and enclosed a map of Waikato, the only question of confiscation then under discussion related to Waikato, in reference to which there were two Orders in Council only, the third related to Tauranga exclusively. It is literally true there were three Orders in Council substituted for the draft order of the 17th of May, but it is equally true that practically there were but two in reference to which any question remained, Tauranga having been disposed of.

3. *On the 17th of May Ministers laid before the Governor an Order in Council.....*

Ministers did not lay before the Governor an Order in Council on the 17th of May, but as appears on the face of the document itself, a *draft* order for His Excellency’s approval. The difference is material. An Order in Council, prepared for signature, represents a subject on which Ministers have made up their minds and given advice, but the *draft* order was laid before His Excellency for his approval in order to elicit his opinion; the form of a draft invites consideration and revision. In a Memorandum of the 25th of May His Excellency stated in reference to this draft that upon the whole the Governor would prefer a district “being in the first instance defined which would only embrace a considerable