

embarrass his Advisers; on the contrary, it will be to their credit to have taken a better course; if his views have weight, and his Advisers act on any of them, then he will have the pleasure of having been of assistance to them.

In answer to some remarks of his Responsible Advisers, the Governor would state that he read the former Government notice and the present Proclamation as requiring all Natives who came in, to come in with guns and give them up. His only experience of the matter was, that he saw on the Upper Waikato, fourteen Natives who had come in without guns, and had been made prisoners for so doing, and he felt considerable hesitation in ordering their release when applied to on the subject; he also believed that what had then taken place, had prevented other Natives who had no guns from coming in. If (as Ministers state) half of the Natives who have given in their submission in Waikato have been received, though they brought no guns with them, and this is the principle to be acted on, and if as the Governor has understood from those who have seen them, many of the guns are worthless, there appears to be the less necessity for calling on the Governor to sign a formal declaration informing all those who want to come in, that they must bring guns with them, especially when for the reasons he stated in his Memorandum of the 3rd of May, he thinks that such a Proclamation may produce bad results. The object that he had in view in proposing that no Native should be allowed to have a gun in any district proclaimed open for settlement, without a license, was to provide for the case of the friendly Natives who may be living within the limits of such a district, and gradually to bring about a registration of arms. He proposed that those who have been in arms against us should be required to come in without arms, or to give them up, and he would not give such people a license to have arms. Friendly Natives, who cannot well be disarmed, he would give a license to have guns. He still thinks that his Advisers might do well not to reject this suggestion too lightly. It would have many practical advantages.

The Governor still believes that we have hardly Troops enough to hold what we have got possession of, looking to the exigencies of Taranaki, Hawke's Bay, and other parts, and it is this consideration which makes him so anxious to see no steps taken which may lead us into collision with other tribes, and spread the war over a larger space. He is well aware that many of the Waikato chiefs have not sued for peace, and he would not propose terms of peace to them; but what he proposes, is to issue an Order in Council, for the settlement of a territory of which we have taken possession, and in that territory to establish certain regulations for our own welfare, and for our own objects. For some time he has thought that this step should be taken without delay, all that has recently happened confirming him in this view. He can see no difficulty in taking it at once.

G. GREY.

May 7th, 1864.

No. 12.

MEMORANDUM by the GOVERNOR.

The Governor having been advised by his Responsible Advisers, that all those Natives who have been fighting against the Queen's troops, have forfeited all their lands—would feel much obliged to Ministers, if they would furnish him with a statement of the grounds on which the legality of this opinion rests, for the purpose of transmission to Her Majesty's Government, and in order that the legality of the measures he may have to take to give effect to this advice of his Ministers, may be fully admitted and established.

G. GREY.

May 5th, 1864.

No. 13.

MEMORANDUM by MINISTERS.

With reference to His Excellency's Memorandum of the 5th of May, Ministers most respectfully submit that His Excellency is under a misapprehension that his Responsible Advisers have advised that all those Natives who have been fighting against the Queen's troops have forfeited all their lands. His Excellency's present Advisers at all events have neither given such advice, nor have been asked to advise on the subject.

As far as Ministers are aware, the first declaration as to forfeiture was made at Taranaki in May 1863, in reference to the Oakura block, as Ministers understood, by His Excellency; but the first public record in the cognisance of Ministers, of any declaration of forfeiture of Native Lands is contained in His Excellency's proclamation of the 11th July 1863, in the following words in the *New Zealand Gazette* of the 15th of July, 1863:—"Those who wage war against Her Majesty, or remain in arms, threatening the lives of her peaceable subjects, must take the consequences of their acts, and they must understand that they will forfeit the right of possession of their lands guaranteed to them by the Treaty of Waitangi, which lands will be occupied by a population capable of protecting for the future the quiet and unoffending from the violence with which they are now so constantly threatened."

It appears to have been assumed from that time that the passage from the Proclamation was a correct statement of the Natives position, as regards their lands, and Ministers have so accepted it.

FREDK. WHITAKER.

Auckland,
6th May, 1864.
