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The Mission of the "Britomart" at Akaroa,
in August, 1840.

By JOHANNES C. ANDERSEN.

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ART. XIV.—*The Mission of the "Britomart" at Akaroa, in August, 1840.*

By JOHANNES C. ANDERSEN.

[Read before the Historical Section of the Wellington Philosophical Society, 20th May, 1919; received by Editor, 19th June, 1919; issued separately, 10th June, 1920.]

THE British Government, though constantly urged by the New Zealand Company, had persistently refused to recognize New Zealand as a British colony, or even as a possession of the Kingdom. The company, therefore, in order to force the hand of the Government, despatched the "Tory" for Port Nicholson (afterwards named Wellington) on the 12th May, 1839, for the purpose of purchasing land from the natives and forming a settlement, the first colonists to follow almost at once. This forced the Government into unwilling action, and an Imperial Proclamation was issued on the 15th June, 1839, extending the boundaries of New South Wales so as to include portions of New Zealand; and on the 13th July of the same year Captain Hobson was appointed Lieutenant-Governor "of any territory which is or may be acquired in sovereignty by Her Majesty in New Zealand." Among other instructions issued to Captain Hobson by Lord Normanby was one to the effect that he should endeavour to persuade the chiefs of New Zealand to unite themselves to Great Britain; he was also to establish a settled form of civil government, with the free and intelligent consent of the natives expressed according to their established usages; to treat for the recognition of the sovereignty of Her Majesty over the whole or any part of the Islands; to induce the chiefs to contract that no lands should in future be sold except to the Crown; to announce by Proclamation that no valid title to land acquired from the natives would thereafter be recognized unless confirmed by a Crown grant; to arrange a commission of inquiry as to what lands had been lawfully acquired by British subjects and others; to select and appoint a Protector of Aborigines.

Captain Hobson left in the "Druid" for Port Jackson, where he arrived on the 24th December, 1839. On the 14th January, 1840, Sir George Gipps, Governor of New South Wales, administered the oaths to Captain Hobson, making him Lieutenant-Governor of New Zealand. He also, in accordance with the instructions of Lord Normanby, issued three Proclamations—the first extending the boundaries of New South Wales to include any territory which then was, or might thereafter be, acquired in sovereignty by Her Majesty in New Zealand; the second appointing Captain Hobson Lieutenant-Governor; the third declaring that all purchases of land from the natives thereafter would be invalid unless supported by a Crown grant.

The new Lieutenant-Governor arrived in the Bay of Islands on the 29th January, 1840, where he next day read his commissions before the people assembled. As a first step towards establishing the sovereignty of Her Majesty he called together the natives, and on the 5th February, 1840, were commenced the negotiations which, on the following day, resulted in the Treaty of Waitangi being signed by forty-six principal chiefs. Others signed it, or authorized copies of it, in various parts of the Islands at later dates, the aggregate number of signatures obtained being 512. Being

attacked by paralysis, the Lieutenant-Governor was disabled from travelling to obtain the signatures personally, and he deputed Major Bunbury to visit parts of the North Island, and also the Middle and Stewart Islands, for that purpose. Major Bunbury sailed in H.M.S. "Herald," with instructions, dated 25th April, 1840, to obtain signatures at all places possible, and to visit such places as he might deem most desirable for establishing Her Majesty's authority.

In reporting the results of his mission Major Bunbury stated that he had, on the 5th June, 1840, proclaimed the Queen's authority, by right of discovery—no natives being there met with—at Southern Port (Stewart Island); and at Cloudy Bay (Middle Island) on the 17th June, the sovereignty at this place having been ceded by the principal chiefs signing the treaty.

Writing on the 25th May, 1840, to the Secretary of State for the Colonies, Lieutenant-Governor Hobson concluded his despatch by saying that without waiting for Major Bunbury's report he had, on the 21st May, 1840, proclaimed the sovereignty of Her Majesty, owing to affairs at Port Nicholson pressing him so to do, over the North Island in accordance with the consents given by the natives in the treaty, and over the southern islands by right of discovery. This despatch was acknowledged and approved by Lord John Russell, and the Proclamations making the islands subject to Her Majesty were inserted in the *London Gazette*. New Zealand was at the time promised a charter of separate government, which charter was sent on the 9th December, 1840. Lest, however, the proclamation of sovereignty over the Middle Island "by virtue of discovery" should be considered either insufficient or illegal, the Queen's authority was again proclaimed over it by Major Bunbury on the 17th June, 1840, by virtue of the Treaty of Waitangi. This same proclamation was also made at Cloudy Bay, and Captain Nias, of H.M.S. "Herald," landed with a party of marines to honour the occasion, twenty-one guns being fired from the ship.

Sir George Gipps, writing to Lord John Russell on the 24th July, 1840, reported that Major Bunbury appeared to have carried out his instructions very satisfactorily. He says, *inter alia*, "One of the places visited by the 'Herald' was Banks Peninsula, the spot at which it has been said that a settlement is about to be made by a company formed in France. Of this company, however, and of its proceedings I know nothing, save what I have derived from English newspapers." The French discovery-ships "Astrolabe" and "Zélée" were at Banks Peninsula in April, 1840; they knew of no project for forming a settlement there, and, indeed, thought the locality a disadvantageous and undesirable one for such a purpose.

Strong feeling had been excited in France by the publication in London of the instructions to Captain Hobson when he was sent out as Lieutenant-Governor to New Zealand. The French Press teemed with calls on their Government to take steps similar to those the British Government proposed to adopt, and to take a share in the colonizing of New Zealand, as a country open to all nations. Mr. E. Gibbon Wakefield, giving evidence on the 17th July, 1840, before the Select Committee on New Zealand affairs, stated that he had received as many as forty different French newspapers containing comments on Captain Hobson's instructions. The French Chamber of Commerce also petitioned the Government, and from all this excitement sprang a project for sending French colonists

and establishing a French colony in New Zealand. Matters connected with this project were conducted by a company calling itself the Nanto-Bordelaise Company. A certain Captain Langlois had, on the 2nd August, 1838, made a provisional purchase from Tuarau and other natives, of the greater part of Banks Peninsula, paying a deposit in commodities valued at £6, further commodities to the value of £234 to be paid at a later period. They were so paid, but not until the arrival of the French colonists in August, 1840. Consequently, owing to the Proclamation of Governor Gipps above referred to, the purchase was, strictly speaking, illegal, and need not have been recognized by the Crown at all. Captain Langlois sold part of his interest to the Nanto-Bordelaise Company, and on the 9th March, 1840, sixty-three emigrants left Rochefort in the "Comte de Paris," an old man-of-war given by the French Government for the purpose.

Another man-of-war, the "Aube," under Captain Lavaud, was sent as escort, and also to take possession for the French Government and protect the colonists on their arrival. The captain, in order to consult the Roman Catholic bishop resident there, sailed for the Bay of Islands, arriving on the 11th July, 1840. Certain proceedings took place subsequently to her arrival, which have given rise to the romantic account of the "taking possession" at Akaroa. It is said that the captain in an unguarded moment revealed the object of his presence in New Zealand waters, whereupon the "Britomart" was secretly despatched to forestall the French by taking possession of the South Island at Akaroa. Lavaud was obliged to make some mention of his mission in order to explain his presence in the bay, and was placed in an extremely awkward position when he was told that the whole of New Zealand, including the South Island, had been proclaimed a possession of the British Crown. At the time he left France New Zealand was still a No Man's Land; and he had had two separate instructions—one to protect the French whaling industry in the southern waters, the other to prepare Akaroa for the reception of the emigrants by the "Comte de Paris," part of such preparation being the annexation of Banks Peninsula or further territories on behalf of France. He knew nothing even of the appointment of Hobson as Lieutenant-Governor, and he was at first disposed to refuse recognition of his authority.

Hobson appreciated his difficulty; and in order partly to safeguard such British interest in the peninsula as had been established, partly to convince the French that the territory was undoubtedly regarded as British, he despatched Captain Stanley with two Magistrates to hold Courts at Akaroa and other places on the peninsula. The following is a copy of the instructions to Stanley: they are printed in part in Rusden's *History of New Zealand*, though not in the printed collections of official documents:—

Government House, Russell,

Bay of Islands, 22nd July, 1840.

SIR,—

It being of the utmost importance that the authority of Her Majesty should be most unequivocally exercised throughout the remote parts of this colony, and more particularly in the Southern and Middle Islands, where, I understand, foreign influence and even interference is to be apprehended, I have the honour to request you to proceed immediately in H.M. sloop, under your command, to those islands.

On the subject of this commission I have to request the most inviolable secrecy from all except your immediate superior officers, to whom it may be your duty to report your proceedings.

The ostensible purpose of your cruise may appear to be the conveyance of two magistrates to Port Nicholson, to whom I will elsewhere more particularly refer. The

real object to which I wish particularly to call your attention is to defeat the movements of any foreign ship of war that may be engaged in establishing a settlement in any part of the coast of New Zealand.

There are various rumours current that Captain Lavaud, of the French corvette "L'Aube," now at anchor in this port, is employed in the furtherance of designs such as I have before mentioned. From some observations that fell from him, I discovered that his intention was to proceed to the southern islands, being under the impression that the land about Akaroa and Banks Peninsula, in the Middle Island, is the property of a French subject. These circumstances, combined with the tone in which Captain Lavaud alluded to Akaroa and Banks Peninsula, excited, in my mind, a strong presumption that he is charged with some mission in that quarter incompatible with the Sovereign rights of Her Britannic Majesty, and which, as I have before observed, it will be your study by every means to frustrate.

If my suspicions prove correct, "L'Aube" will no doubt proceed direct to Akaroa and Banks Peninsula, for which place I have earnestly to request that you will at once depart with the utmost expedition, as it would be a point of the utmost consideration that, on his arrival at that port, he may find you in occupation, so that it will be out of his power to dislodge you without committing some direct act of hostility.

Captain Lavaud may, however, anticipate you at Akaroa, or (should he be defeated in his movements) may endeavour to establish himself at some other point. In the event of either contingency occurring, I have to request you will remonstrate and protest in the most decided manner against such proceeding, and impress upon him that such interference must be considered as an act of decided hostile invasion.

You will perceive by the enclosed copy of Major Bunbury's declaration that independent of the assumption of the sovereignty of the Middle and Southern Islands, as announced by my proclamation of the 21st May last (a copy of which is also enclosed), the principal chiefs have ceded their rights to Her Majesty through that officer, who was fully authorised to treat with them for that purpose; it will not, therefore, be necessary for you to adopt any further proceedings. It will, however, be advisable that some act of civil authority should be exercised on the islands, and for that purpose the magistrates who accompany you will be instructed to hold a court on their arrival at each port, and to have a record of their proceedings registered and transmitted to me.

You will by every opportunity which may offer forward intelligence of the French squadron's movements, and should you deem it necessary, to the Secretary of State for the Colonies through the Admiralty and to His Excellency Sir George Gipps, Governor of New South Wales.

Mr. Murphy and Mr. Robinson, the magistrates who accompany you, will receive a memorandum of instructions for their future guidance, which you will be pleased to hand to them when you arrive at your destination.

As your presence in these islands will be of the utmost importance to keep in check any aggression on the part of foreign Powers, I have earnestly to request that, should you require any further supply of provisions the same may be procured, if possible, at Port Nicholson, or at any of the ports on the coast, without returning to Sydney.

I have the honour to be, Sir,

Your most obedient servant,

W. HOBSON.

The instructions to the Magistrates are not copied by Rusden; they and the above were, however, discovered in the Public Records Office in London by Mr. Guy H. Scholefield, London correspondent of the *Press*. The instructions were addressed to Mr. Murphy, whose name appears first in Stanley's instructions, he, not Robinson, being apparently the senior officer. They were as follows:—

MEMO. OF INSTRUCTIONS TO BE ATTENDED TO BY MR. MURPHY, P.M.

You will, at every port that H.M. sloop "Britomart" touches at, act in your magisterial capacity, and, as it is requisite that the civil authority should be strictly exercised, should no case be brought under your notice, you will adjourn from day to day, and a careful record of your proceedings be registered, a copy of which you will transmit to me.

Under any circumstances that Captain Stanley may call upon you for assistance you will, of course, render it, and co-operate generally with him in the advancement of any measures he may think it expedient to adopt.

Dated at Russell, 21st July, 1840.

The following is a copy of Captain Stanley's report, dated 17th September, 1840:—

I have the honour to inform your Excellency that I proceeded in Her Majesty's sloop under my command to the port of Akaroa, in Banks Peninsula, where I arrived on August 10th after a very stormy passage, during which the stern boat was washed away and one of the quarter-boats stove. The French frigate "L'Aube" had not arrived when I anchored, nor had any French emigrants been landed. August 11th I landed, accompanied by Messrs. Murphy and Robinson, police magistrates, and visited the only two parts of the bay where there were houses; at both places a flag was hoisted, and a court, of which notice had been given the day before, held by the magistrates. Having received information that there were three whaling-stations on the southern side of the peninsula, the exposed positions of which afforded no anchorage for the "Britomart," I sent Messrs. Murphy and Robinson to visit them in a whale-boat. At each station the flag was hoisted and a court held. On August 15th the French frigate "L'Aube" arrived, having been four days off the point. On August 16th the French whaler "Comte de Paris," having on board fifty-seven French emigrants, arrived. With the exception of M. Belligni, from the Jardin des Plantes, who is sent to look after the emigrants, and who is a good botanist and mineralogist, the emigrants are all of the lower order, and include carpenters, gardeners, stone-masons, labourers, a baker, a miner—in all thirty men, eleven women, and the rest children. Captain Lavaud, on the arrival of the French emigrants, assured me on his word of honour that he would observe strict neutrality between the English residents and the emigrants, and should any difference arise he would settle matters impartially. Captain Lavaud also informed me that, as the "Comte de Paris" has to proceed to sea, whaling, he would cause the emigrants to be landed on some unoccupied part of the bay, where he pledged himself they would do nothing which would be considered hostile to the Government, and that until fresh instructions were received from our respective Governments the emigrants would merely build themselves houses for shelter and clear away what little land they might require for gardens. Upon visiting the "Comte de Paris" I found she had on board, besides agricultural tools for the settlers, six long 24-pounders, mounted on field carriages. I immediately called on Captain Lavaud to protest against the guns being landed. Captain Lavaud assured me that he had been much surprised at finding guns had been sent out in the "Comte de Paris," but that he had already given the most positive orders that they should not be landed. On August 19th, the French emigrants having been landed in a sheltered well-chosen part of the bay, where they could not interfere with anyone, I handed over to Messrs. Murphy and Robinson the instructions entrusted to me by your Excellency to meet such a contingency. Mr. Robinson, finding that he could engage three or four Englishmen as constables, and having been enabled, through the kindness of Captain Lavaud, to purchase a boat from the French whaler, decided upon remaining. Captain Lavaud expressed much satisfaction when I informed him Mr. Robinson was to remain, and immediately offered him the use of his cabin and table so long as the "Aube" remained at Akaroa. Mr. Robinson accepted Captain Lavaud's offer until he could establish himself on shore. On August 27th I sailed from Akaroa to Pigeon Bay, where, finding no inhabitants, I merely remained long enough to survey the harbour, which, though narrow and exposed to the westward, is well sheltered from every other wind, and is much frequented by whalers, who procure a great number of pigeons. From Pigeon Bay I went to Port Cooper, where Mr. Murphy held a court. Several chiefs were present and seemed to understand and appreciate Mr. Murphy's proceedings in one or two cases that came before him. Between Port Cooper and Cloudy Bay I could hear of no anchorage whatever from the whalers who frequented the coast. I arrived at Port Nicholson on September 2nd, embarked Messrs. Shortland and Smart, and sailed for the Bay of Islands on September 16th. I have the honour to enclose herewith such information as I was enabled to procure during my stay at Banks Peninsula, and also plans of the harbours.

One enclosure is an interesting table of ports and whaling-stations in the peninsula visited by Captain Stanley, but as it does not bear on the subject it is not copied; from it is gathered, however, that the European population at the time of Captain Stanley's visit numbered over eighty.

It will be observed that no note whatever is made of "taking possession." The log of the "Britomart" is equally reticent. A copy of the log was obtained by Mr. Guy H. Scholefield in London, and from it the following particulars are gathered. The sloop-of-war "Britomart," Captain

Stanley, left Sydney on the 17th June, 1840, and came to anchor at Kororareka, or Bay of Islands, on the afternoon of the 2nd July, H.M.S. "Herald" having worked into the bay just ahead of her. She lay in the bay for nine days, "cutting brooms," watering, &c., until on Saturday, the 11th July, "arrived the French ship of war 'L'Aube,' and revenue cutter 'Ranger,' with the Governor. Saluted the French flag with 21 guns." Routine work went on as before, but on the 22nd the company of the "Britomart" was employed making preparations for sea. The log of the following day, commencing at midnight on the 22nd, is interesting: "2 a.m. received on board per order of his Excellency Lieutenant-Governor Hobson, Mr. Murphy and Mr. Robinson, magistrates; 8, loosed sail, short'd in cable; 11 weighed and made sail. Working out of Kororareka Harbour; tacked occasionally." The vessel was busy all the afternoon working out of the Bay of Islands, and at daylight on the 24th Cape Brett lay on the lee bow distant ten or twelve miles. The passage to Akaroa was a thoroughly bad one, and the ship suffered considerably from the knocking-about she received. At midday on the 25th, the first day out, the vessel was off the Great Barrier. The following morning the foretopmast was found to be chafed through, and in the afternoon the foretopsail was split. On the 27th much time was occupied in bending new sails; in the afternoon two ports were stove in by the heavy sea. Cape Wareka [? Wharekahika] was 218 miles distant at noon on the 28th. On the 29th and 30th there was a heavy head swell, which made the 120 miles to East Cape a good deal more. However, the wind veered round, and the "Britomart" rounded East Cape before midnight on the 31st. In the afternoon the hold had 14 in. of water, and thereafter the pumps were going almost continuously. On the 2nd August "Akaroa" was 306 miles distant, and there were 17 in. and 18 in. of water in the hold through the afternoon. At 2 o'clock on the morning of the 3rd a sea was shipped which stove in the lee quarter boat and washed away a port. The ship was twelve miles farther from her destination at noon on the 4th than on the previous day. Again, in the early morning of the 5th, a sea stove in a weather port. Land was seen on the port bow at 10 a.m. on the 6th; it was somewhere near Flat Point, or Te Awaite, in the North Island. In the afternoon the sea split the foretopmast-staysail. Next day the weather moderated, and sea-water was pumped into the empty tanks. Land showed on the lee bow at 7 in the evening, and next morning, the 8th, Cape Palliser was four or five leagues distant. On the morning of the 9th, Sunday, the crew was mustered and the Articles of War were read. This was a proceeding of quite a routine nature. There was land on the beam, and a run of eighty-three miles to Akaroa. This is the narrative of the 10th: "4 a.m. bore up for the land; 12.30 calm, with a heavy swell; out sweeps and swept ship; 1.30 a breeze from the nor'ward; in sweeps, trimmed and swept into the harbour; 4.30 shortened sail and came to with S.B. in 6½ fathoms; furled sails, &c." At daylight on the 11th the boats were out and the ship was made snug. There is no reference to any incident outside the ordinary routine of the ship. On the 12th the boats were sent out to survey and cut wood, and they were so employed for the next few days, completing on Friday, 14th. On the following day, 15th August: "5 p.m., sent boats to assist towing the French ship-of-war 'L'Aube'; 8, anchored do." Sunday was marked with the usual Divine service. On Monday, 17th: "— p.m., arrived the French ship (merchant) 'Count de Paris,' with emigrants. Lent the cutter with a party to haul the seine." There is nothing but routine entries until the 22nd, when the company was employed making preparations for sea.

The "Britomart" ran down the harbour on the 26th and came near the entrance, when she spoke the British merchant ship "Speculator," just arrived. Sails were loosed on the 27th, and further preparations made for sea. At 8 a.m. Captain Stanley "discharged Mr. C. B. Robinson, police magistrate," and at 9 made sail down the harbour, coming to at the anchorage. Putting to sea the following day, the "Britomart" spoke the schooner "Success," of Sydney, from Port Cooper, and another sail. On the 29th she shaped her course for Pigeon Bay, where she came to and sent a boat to survey and get water. On the 30th she sailed for Port Cooper (now Lyttelton Harbour) and anchored there. On the 1st September the "Britomart" was again under sail, and a cable was passed to the merchant ship "Africane," but in getting under way in the squally wind the hawser parted, and the "Britomart" touched bottom. She made a good passage to Cape Palliser, which was in sight at daylight on the 2nd, and in the afternoon she was working up to Port Nicholson, where she anchored at 5 p.m.

Lieutenant-Governor Hobson sent a copy of Captain Stanley's report to Governor Sir George Gipps, saying, "I transmit a copy of Captain Stanley's report of his proceedings while at Akaroa. The measures he adopted with the French emigrants are, I think, extremely judicious, and the whole of his conduct evinces a degree of zeal and intelligence which, I trust, you will consider worthy of the notice of Her Majesty's Government." There is no note of "forestalling" the French; and the first apparent note of anything that might be construed into pleasure at such forestalling is found in Governor Gipps's despatch to Lord John Russell: "I have already transmitted to your Lordship copies of the instructions which have been given to Captain Stanley, of H.M.S. "Britomart," by the Lieutenant-Governor of New Zealand. . . . I have now the satisfaction to inform your Lordship that Captain Stanley preceded the French . . ."

Even in the French Chamber of Deputies the position seemed to have been clearly perceived; for later, on the 29th May, 1844, the following remarks were made in that chamber by M. Guizot, Minister of Foreign Affairs: "There are two Proclamations, one on the 21st May, the other on the 17th June. Both are anterior to the arrival of Captain Lavaud, of the 'Aube.' Of these I have carefully read only that of June 17th, relative to the taking possession of the southern island. Here is the English text—I translate literally: 'Taken possession, in the name of Her Most Gracious Majesty the Queen of the United Kingdoms of Great Britain and Ireland, of the southern island of New Zealand. This island, situated in [here follows latitude and longitude], with all its woods, rivers, ports, and territory, having been ceded in sovereignty by different independent chiefs to Her Most Gracious Majesty, we have taken solemn possession of it, &c.'"

There was a diary in existence, and may still be, though its whereabouts is not known—the diary of C. B. Robinson, one of the Magistrates sent with Stanley. Thanks to the foresight of the late Mr. S. C. Farr, of Christchurch, important extracts from it are printed in *Canterbury Old and New*, as follows:—

August 3rd, 1840. Appointed by Captain William Hobson, Lieutenant-Governor of New Zealand, with all necessary instructions and a proclamation signed "William Hobson," and dated August 3rd, 1840, at Government House, Russell, Bay of Islands. Also signed by Willoughby Shortland, Colonial Secretary. Instructions were: "To proceed with all despatch in H.M.S. (brig) 'Britomart,' Captain Owen Stanley R.N., Commander, to Akaroa, Banks Peninsula, and hoist the Union Jack, which will be given to you, on a spur jutting out a little more than half-way up the harbour, on the east side, and marked in red on the map you take with you."

Here followed the Proclamation, which was not copied. The diary continued:—

"We sailed that evening with a fair, strong wind; a good passage was made, and we anchored in Akaroa Bay on the morning of August 11th. We at once proceeded to make preparations for the formal ceremony. A log of wood, old and dry, was procured from the bush by some of the crew, and was hewn by the carpenter eight inches square. A hole was dug in the ground at the spot selected, the post put in, and the earth well rammed down round it. A spar had been brought from the vessel, rigged with pulley and halyard for hoisting the flag; this was lashed to the post, and everything made ready by 5 p.m. on August 15th. The next morning, at 12 o'clock noon, I Charles Barrington Robinson, deputed by the Acting-Governor, hoisted the Union Jack in the name of Her Majesty the Queen Victoria, and in the presence of Captain Stanley, his officers, some of the crew, about a dozen natives (Maoris), and the only Englishman then in the bay, Mr. Green, with his family. There was no demonstration other than my reading the proclamation, three cheers for Her Majesty, and the National Anthem.

The next note made was: "August 18th. The French man-of-war 'Aube,' Captain Lavaud, arrived in the bay."

Now compare these statements with the log of the "Britomart." The Proclamation signed "William Hobson" was, it is said, dated 3rd August. On that date the "Britomart" was actually being buffeted at sea, south of East Cape, and somewhat over three hundred miles from Akaroa! Mr. Robinson says, "We sailed that evening [August 3rd] . . . a good passage was made . . . and we anchored on the morning of August 11th." The log shows they sailed on the morning of the 22nd July, and made anything but a good passage, anchoring in Akaroa at 4.30 p.m. on the 10th August. Mr. Robinson says he hoisted the flag at noon on the 16th, and the "Aube" appeared on the 18th August; the log shows that the "Aube" came to anchor on Saturday, 15th August. Again, the report of Captain Stanley shows that the flag was hoisted and a Court held at two places in the bay on the 11th August, and at three other bays where there were whaling-stations during the succeeding days, so that during the time Mr. Robinson says they were busy preparing the pole, &c., the report shows that he and Mr. Murphy were visiting the whaling-stations in a whaleboat.

These discrepancies are extraordinary, and cannot but give colour to a suggestion already made in the voluminous newspaper correspondence on this subject—that the diary was not begun until some time after the event, and then written up from memory, or from faulty notes.

On the late Dr. R. McNab visiting England towards the end of 1909 the writer of this paper wrote to him, in December of that year, urging him to secure, if possible, logs of the "Aube" and "Comte de Paris," also the instructions to Captain Lavaud, and Lavaud's despatches to his Government. The writer had already sent him a precis of what had been gathered by him up till that date, and Dr. McNab was successful in obtaining copies of a great deal of matter—so much that he intended making it the subject of a book. This his lamented death unfortunately prevented.

The following are translated extracts from a letter written by Lavaud to the Minister of Marine, at the Bay of Islands, on the 19th June, 1840:—

On the 29th of June I sailed round Van Diemen's Land; at that time there was a S.E. wind shifting to the east, a fine breeze but contrary to the course to be travelled to get to the south of New Zealand: I decided to sail into the Bay of Islands, where I hoped to see the Bishop of Maronae. . . . Your Excellency was kind enough to allow me the latitude to change this part of my course, and I sailed to the north, directing the "Aube" to the Three Kings Islands, the first land I caught sight of

since the 25th of March, and it was on the 8th of this month at 1 o'clock in the morning. On the 9th I recognized the Cape Maria van Diemen. I left the North Cape the same day at night, and on the 10th, in the morning, I was at the entrance of the Bay of Islands, which I could only reach in the night on account of the calm and the strong land breezes which did not permit me to go ahead. I met the vessel H.B.M. "Britomart." The Captain came to see me as soon as I had cast anchor. We exchanged the usual salutes of politeness and remained very good friends. I immediately visited the Bishop.

On my arrival I heard of the taking possession, in the name of the Queen of the United Kingdom of Great Britain and Ireland, of the three islands composing the group known under the name of New Zealand. The British flag flies two miles from the anchorage of Kororareka, on the River Karra-karra, on the site of Fort Russell-Town, the name of the town to be built there. A Lieutenant-Governor, Mr. Hobson, is established there with a large administrative staff and a garrison of 130 men, commanded by a field officer of the land forces, who has three other officers under his command. Three warships seem to be attached to the British colony. The corvette "Herald," which belongs to them, recently made a voyage round all the islands where Englishmen are established, visiting the principal places. . . . Akaroa is at present also occupied by an Englishman, whose cattle graze there. The corvette "Herald" went there, and I heard that about two months ago, there, as well as everywhere where she found no Europeans, the declaration of British sovereignty had been written on a paper, enclosed in a bottle, and hidden in the earth.

The property of Banks Peninsula has been constituted by a Mr. Clayton, who lives in the Bay of Islands and who has heard from the whalers long ago that Mr. Langlois had acquired it; but as I thought, in such a state of affairs, I ought at present to conceal the mission I was charged with, this statement did not come to me in an official way.

The position has greatly changed since my departure from France; British jealousy has made great steps forward and is running fast. I shall avoid to compromise the Government of the King; I will act with great caution; but, on the other hand, so far away from Your Excellency, and ignoring what has happened between the two Governments, after France has been notified that the full sovereign power lies in the hands of "Her Majesty Queen Victoria, her heirs and successors," as stated in the Proclamation dated the 21st of May—I repeat, so far away, I cannot deviate from the orders I carry, and, having above all to preserve the honour of my flag, I shall declare officially to the representative of Her Britannic Majesty on the island, Captain Hobson, that for the present I protest against any measure, coming from the British Government, which might result in infringing the French property duly acquired from the free and independent natives, till the moment in which the Government of the King will be pleased to recognize British sovereignty over these islands.

I fear that the "Comte de Paris," which, according to what her captain wrote to me before I left France, has put into port at Senegal, at the Cape, at Hobart Town, and at the Bay of Islands, before returning to Akaroa, will keep us waiting for some time, which will be very regrettable. There ought to be more than one warship here, for I shall not be able to leave Akaroa when I get there, and yet I will entirely ignore there what is happening around me. We must not conceal from ourselves that everybody here will try and hinder us, and I will be all the more unprepared to avoid the pitfalls of our neighbours because I will have no information from the outside. . . . I hope that the official news received in France the last few months will appear to Your Excellency to be of such a nature that fresh instructions will be sent me, and that perhaps also the sea forces will be increased.

I add my letter to Captain Hobson . . . who, as Your Excellency will see, refused to enter into explanations with me if I did not previously recognize his title as Governor of the Islands of New Zealand. . . . I tried to make him understand that I could not see why he should keep silent about the object of my letter [concerning properties acquired by the French in various parts of the Islands], having only as a reason that I did not recognize him as Governor of the Islands of New Zealand. I also pointed out to him that large French properties existed in the Islands, especially in the Middle Island, which we call in France the South Island, and that I could not admit the rights of sovereignty of a foreign Government over this property; but he very well explained to me that there was a distinction to be made here—that he did not contest the property of the French on the Islands; that the chiefs when selling had only sold the land, but not their authority, which they abdicated in favour of Britain; that only after this abdication the British sovereignty had been declared. Then I handed him a letter telling him that the contents would make him understand my last word. He read it with great attention, and told me that in my place he would

have acted as I had done, and that he thought it was the surest way to avoid a conflict which might have had very unpleasant consequences for both Governments, in breaking out so far away. I insisted upon knowing if the contents of my letter had been well understood. He told me, Yes, that he understood the whole sense and the whole situation; that he would send a copy to the Governor-General at Sydney, who would take his orders from the Government of the Queen; and that in the meantime he would use his whole persuasive influence with this same Governor-General, so that the Committee should not be obliged to inquire about the validity of the French title-deeds until the two Governments had come to some arrangement. After that I added that I was going to the South; that several landowners and colonists were already established there, and others would go there to establish themselves; that the measures I claimed were to be extended to them also, and that there, too, they were to feel the protection of their Government, and consequently should be able to occupy the land, work on it, sow and reap without being worried. Mr. Langlois will take possession of Banks Peninsula and will give over to me the land which he is to transfer to the French Government, which will not appear in the matter, unless it were to judge that it ought not to give its adhesion to the sovereignty of Queen Victoria over the Islands of New Zealand of which Banks Peninsula is a part; and in case that I were to receive orders to declare that this sovereignty was not recognized I should proclaim that of France over the peninsula. I say only Banks Peninsula because all the rest is invaded and occupied by the British. There is even a Magistrate at Cloudy Bay. Well, Minister, things are so advanced that it is too late to stop them, and being persuaded of this I wish to let the King's Government act freely without urging or compromising it in anything. The same motives have made me avoid placing myself in the position to be obliged to fire the first cannon-shot, the signal of war, knowing that if, on my departure from France, Your Excellency could have seen the position in which I find myself at present you would have sent me off with different instructions from those I have; you would not have let the "Comte de Paris" sail, and would not have left me the choice of war or peace.

Later, in July, Lavaud received information of other claims than that of Langlois to land on Banks Peninsula; and he writes to his Minister—

Your Excellency will see that, as I had already heard, the ownership of Banks Peninsula has been partially or totally claimed by several people, who every one of them pretend to be the legitimate owners and to possess title-deeds. I have had the honour of mentioning to you, among others, Mr. Clayton, who lays claim only to a part. Further I may name to you the firm of Cooper and Levy, of Sydney, who, as well as Monsieur Langlois, claim the whole peninsula; they have already brought timber to close the isthmus of this peninsula, and the herd of oxen which is in the bay of Akaroa belongs to this firm.

I shall concert with Monsieur Langlois to see what can be done; perhaps it would be suitable to come to some arrangement with the claimants, of whom at least two, Messrs. Clayton and Cooper, bought prior to him.

In any case, we shall settle at Akaroa, awaiting your orders.

The Middle Island (Tawai-Ponamoo) is to-day, as I had the honour of telling you, nearly entirely in the possession of foreigners. We can no more think of acquiring from the natives, who possess only the land reserved for their habitations and plantations; we could only buy from the British, but they are so numerous that I regard it as very difficult to proclaim the sovereignty of France there, as the company, according to all appearances, can actually only claim a part of this peninsula. Through negotiations, I believe it to be quite possible to make the Britannic Cabinet disown Governor Hobson's first Proclamation, as he, in declaring the Queen's sovereignty, relies on a right of discovery which cannot be acknowledged by the nations.

It seems to me that it is impossible that this pretended right can be invoked to-day, so long after the discovery of these islands by Captain Cook; besides, the right of discovery can only be exercised in uninhabited countries, but not in those where the land is trodden by those to whom it naturally belongs and ought to belong. The independence of the Middle Island, under the protectorate of France, would be, I believe, what would henceforth suit you the best. The freedom of the ports of this Island would lead to great commercial movement, which would strike a big blow at the colony of the North Island, soon to be subjected to Customs duties. Your Excellency will appreciate, from all that I have had the honour of communicating to you, the obstacles I have had to encounter and the delicate position in which I find myself. Nevertheless, in a conversation I had yesterday with Mr. Hobson, I thought fit to tell him that French colonists, landowners in the Middle Island, had just arrived, and

that I was going there to protect them when they would take possession of their lands. His letter of the 23rd will perhaps lead me, if I find difficulties in Akaroa, to return to Sydney, when I have settled Monsieur Langlois, for I see that Mr. Hobson can or will not settle the question. In this state of affairs, if the Britannic Government has not got the signatures of the chiefs of Banks Peninsula—that is to say, their consent to recognize its sovereignty—I will make every possible effort to convince the chiefs that they must abandon their land to any nation, but preserve it for themselves and their descendants by accepting the patronage of France and its Government. It is also in the direction of independence, I believe, that we ought to act with Britain.

But, sir, there is no time to be lost to enter into an explanation with the Britannic Cabinet: everything goes very quickly in this colony, and the powers given by Lord Normanby to the Government of Sydney give him all the more latitude, because what he will decide to do concerning these islands has been applauded in advance.

A later letter is dated Akaroa, 19th August, 1840. In it he informs his Minister what he found at Akaroa:—

I have the honour to announce to you the arrival of the "Aube" in the Bay of Akaroa on the 15th instant.

I found several British established there, and the Proclamation placarded by the corvette "Herald" last May posted on the house of an Englishman placed in charge of these Proclamations.

The brig "Britomart" is sailing along the coast and visiting the different ports with two Magistrates, having to go everywhere where any offence has to be investigated and punished. I suppose that my presence is somewhat the reason of these cruises. A boat from this brig, which was lying outside the bay on the 17th instant, came alongside the "Comte de Paris," which, on entering, had fired guns; in this boat were officers and the two Magistrates I just mentioned. Believing that this gun-fire was to call their boat, these gentlemen came on board. They noticed carriages for coast-guns which were on deck; they seemed astonished, but, however, did not say anything about it. Various remarks thoughtlessly made by Captain Langlois also made them feel uneasy, and have been the subject of an explanation between the British captain and myself. I promised to follow the line of conduct that I had traced for myself in the Bay of Islands, and to maintain what I had written, until the British and French Cabinets had decided the question of occupancy in one way or another.

As I have had the honour of informing Your Excellency, I had officially announced to Captain Hobson that I was returning to Akaroa, where the surrounding land, as well as the whole of Banks Peninsula, belonged to French proprietors, who had sent out cultivators from France to clear the land and make it productive. My surprise was great when, on the arrival of the "Comte de Paris," I heard, in the most positive way, that Monsieur Langlois had never negotiated with the chiefs of this part, that he possessed nothing there, and that we had, in fact, no right of ownership we could put forward. The chiefs gathered around me declared to me, through the voice of M. Comte, a missionary priest of Monseigneur Pompallier, who speaks the language of the natives, that Monsieur Langlois had negotiated for a part of the land of Port Cooper, Tokolabo Bay, for which he had paid one part, but that there never had been any question of the port of Akaroa, in which they had sold to a Mr. Rhodes a certain part for grazing or cultivating, and that in the same way they had sold the bay of Pyreka and other bays forming the southern part of the peninsula; and, finally, that that they had never signed a contract of sale, drawn up between Monsieur Langlois and the tribes, of the north-west and west of the peninsula.

In such a state of things, how am I to execute the orders of the King? How to take possession . . . even tacitly, in case of an arrangement between the Governments of France and of Britain, of a land that does not belong to the company? In one word, how to execute the treaty of the 11th October, 1839, made in Paris between the Government and the Nanto-Bordelaise Company? Really, sir, I am travelling on such a winding and dark road that I only walk by groping my way. . . . If Monsieur Langlois had not heard of my presence he would have treated the acts and the official doings of Britain as a joke; he would have hoisted the tricolour flag, would have saluted it with 101 guns, and he would have taken possession in the name of the King of the French; while I, for my part, have tried every day in my conduct to avoid binding my Government, and especially not to compromise the dignity of Royalty. Fortunately, the whaler "Pauline," which I met at sea, by making my presence here known at Port Cooper, prevented a demonstration of this kind, for the ceremony of which several officers and masters of whalers had already been convoked.

From to-day [21st August] a British Magistrate has been appointed to reside at Akaroa and will establish himself there. I suppose it is the arrival and the landing of our colonists that has called forth this measure. I had a conference on this matter with him, and I could see a certain fear concerning my intentions; nevertheless, I am pleased at his presence, because, together with mine, it might avoid misunderstandings between the established British and our colonists.

In ending this despatch I must repeat to Your Excellency my whole idea: No colonization possible in these seas if we do not obtain the withdrawal of these Proclamations and declarations as to the island of Tawai Poenamou (Middle Island); and then, apart from the inconvenience of the neighbourhood, one would have to make a better choice of emigrants than those brought out by the "Comte de Paris."

There is a voluminous essay written by Lavaud, entitled "Voyage and Attempted Colonization of the South Island of New Zealand, undertaken by the Corvette 'Aube,' commanded by Commander Lavaud," which gives more detail than the official papers, but is hardly more to the point.

It will be admitted that Lavaud was placed in a very difficult position through the change of circumstances that had taken place since he left France; that he, as representative of that country, bore himself in a courteous if independent manner, and that both he and Hobson acted with admirable mutual forbearance; that there was no race, the French objects having been defeated whilst Lavaud was still at sea and in ignorance of events; and that Lavaud, whilst accepting the defeat with difficulty, did so with dignity; that his action was the best he could have taken, both for the continued amity of the two nations and for the comfort of the emigrants.

In conclusion, it is a pleasure to be able to express this respect for one who represented a nation with whom we have often been at variance, but between whom and ourselves a bitter war against a common foe has, we trust, consummated an enduring friendship. The French did not prosecute their claim; upon inquiry, the New Zealand Government, in view of the fact that a large number of emigrants had been sent out in good faith, at a cost of £15,125, made the company a grant of 30,000 acres, and the company finally ceded all its rights on the peninsula to the New Zealand Company for the sum of £4,500.

Many contemporary versions have appeared of what was supposed to have taken place at Akaroa in August, 1840; and it was the great discrepancies among these, and the reading of Stanley's report, that awoke in the writer a suspicion that the ceremony performed was not one of taking possession, but merely one of exercising civil authority in virtue of possession already taken; and that more facts were to be gleaned from the dark fields of the past.

It is to be hoped that the whole of the official correspondence, both English and French, may be made generally available by publication.

