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The Taranaki Question. 3rd ed.

William Martin

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THE
TARANAKI QUESTION.

BY
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I. NATIVE TENURE OF LAND

THE TARANAKI QUESTION.

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The Natives have a proverb, u Women and land are the destroyers of men f meaning* that quarrels in which men are slain arise either from women or land.

The present is a land quarrel. The points of it cannot be fully understood without some knowledge of the main principles of the native tenure of land.

These, then, must be briefly stated in the first place: –

I. NATIVE TENURE OF LAND.

1. The land occupied by a Native Community is the property of the whole Community. Any member of the Community may cultivate any portion of the waste land of the Community. By so doing" he acquires a right over that particular piece of land, and the right so acquired will pass to his children and to his descendants. If he have no descendants, the land may then be cultivated by others of the Community, as agreed upon amongst themselves.

Thus the whole Community has a right, like what we should call a reversionary right, over every part of the land of the Community.

The word "Commnnity" is used here rather than the more common terms, "tribe," "sub-tribe," or "family," for this reason: – Each of the original tribes (iwi) of the Maories has in course of time broken up into a great number of sub-tribes or families (hapu), which have from time to time planted themselves in separate villages on different parts of the common territory; each family retaining the name of its ancestor or founder. Such sub-tribes are exceedingly numerous. Sometimes it has happened that intermarriages for many generations between such sub-tribes have so blended them together, as to render it impossible to draw any distinction between them for any practical purpose. Owing to this process of fusion and intermixture, there may be a difficulty sometimes in determining the exact limits of the Community. It may be the whole tribe; it may be less than the whole tribe, yet larger than any one sub-tribe or family.

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However that may be, every Cultivator is a member of some Community or Society, and not free to deal with his land independently of that Community or Society.

2. The Chief naturally represents and defends the rights of his people. He has his own personal interest like the rest. He is also especially charged with the protection of their honour and interests; and would lose all his influence if he did not assert their rights manfully.

It is a common thing for the head man in a

Community to have but little claim upon a spot belonging to the Community, and yet to claim great powers in the disposal of it. In these matters the Tribe generally support what he says. Still, as a general rule, he makes it his business to confer with the lesser Chiefs and the whole Tribe, and does not venture to act without them.

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In some very rare instances, a Chief has disposed of a piece of the land on his own authority without first consulting the people, and his act has been subsequently recognised. In cases of this kind, much depends on the respect in which the Chief is held by his people, and on a variety of circumstances affecting the internal politics of the Community.

To make a sale thoroughly regular and valid, both Chief and people should consent.

In some cases the Chiefship is divided: where, for example, a younger brother has by superior ability or bravery raised himself to the level of the elder, or even above him. So that, in each particular purchase, there is a necessity for carefully ascertaining what is the Community, and who the Chief or Chiefs, whose consent is needed to make the Sale thoroughly valid and unquestionable.

3. In old times, land was sometimes ceded by one Tribe to another as a payment for assistance rendered in war. Also, land was occasionally transferred as payment for losses in war. Where a Chief of superior rank had been slain on one side, land was

yielded up by the other, in order to end the war on fair terms.

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This was the case at Kororareka in the year 1837, when the Nga puhi, from Whangaroa, Matauri, and the Bay of Islands, made an attack on Kawiti and Pomare at Kororareka. Hengi, a superior Chief, fell; and though the assailants were repulsed, Kororareka, together with a large portion of land as far as Cape Brett, was ceded to them.

Even in our times, lands have changed owners on account of a murder, or life otherwise lost.

4. The holdings of individual cultivators are their own as against other individuals of the Community. No other individual, not even the Chief, can lawfully occupy or use any part of such holding without the permission of the owner. But they are not their own as against the Community. If it is said of a piece of land "the land belongs to Paora," these words are not understood by a Maori to mean that the person named is the absolute owner, exclusive of the general right of the Society of which he is a member.

So entirely does a Maori identify himself with his Tribe, that he speaks of their doings in past times as his own individually. We speak of our victories of Blenheim and Waterloo. A Maori, pointing to the spot where his Tribe gained some great victory long ago, will say triumphantly, "Naku i patu," "It was I that smote them."

5. It is established by a singular concurrence of

the best evidence that the rules above stated were generally accepted and acted upon by the Natives, in respect of all the lands which a Tribe inherited from its forefathers. Of course many cases must have existed in which might overcame right. Still the true rule is known and understood: the Natives have no difficulty in distinguishing between the cases in which the land passed according to their custom, and those in which it was taken by mere force.

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In the year 1856 a Board was appointed by the present Governor to enquire into, and report upon, the state of Native Affairs. The Board "considered it necessary to avail itself of the best information which could be obtained from persons acquainted with the Natives," and with that view examined many witnesses. Amongst

other subjects of enquiry, they reported on "Claims of individual Natives to Land" in the following words: –

"Each Native has a right in common with the whole tribe over the disposal of the land of the tribe, and has an individual right to such portions as he or his parents may have regularly used for cultivations, for dwellings, for gathering edible berries, for snaring birds and rats, or as pig-runs.

"This individual claim does not amount to a right of disposal to Europeans as a general rule, but instances have occurred in the Ngati whatua tribe, in the vicinity of Auckland, where Natives have sold land to Europeans under the waiver of the Crown's right of Pre-emption, and since that time to the

Government itself. In all of which cases, no after claims have been raised by other members of the tribe; but this being a matter of arrangement and mutual concession of the members of the tribe, called forth by the peculiar circumstances of the case, does not apply to other tribes not yet brought under its influence.

"Generally there is no such thing as an individual claim, clear and independent of the tribal right.

"The Chiefs exercise an influence in the disposal of the land, but have only an individual claim like the rest of the people to particular portions."

Among the questions put by the Board to the witnesses was the following: –

"Has a Native a strictly individual right to any particular portion of land, independent and clear of the Tribal right over it?"

This question was answered in the negative by twenty-seven witnesses, including Mr. Commissioner McLean, and by two only in the affirmative.

6. This state of things is the necessary consequence of the existence of Clans or Tribes. The Clansmen are equally free and equally descended from the great Ancestor, the first planter or the conqueror of the district. They all claim an interest and a voice in every matter which concerns the whole Tribe; and especially in a matter which touches them all so nearly.

As to the disposal of land, the Natives are fond of arguing thus: "A man's land is not like his cow

or his pig. That he reared himself; but the land comes to all from one Ancestor."

7. Englishmen seem often to find a difficulty in apprehending such a condition of things; yet it is in fact the natural and normal condition of a primitive Society. It may be worth while to turn aside for a moment to shew this.

"However familiar the appropriation of land may appear, the history of mankind affords sufficient proof of the slow development of individual possession, and the difficulty of arriving at the principles upon which such an exclusive claim is founded. The first and most obvious right accrues to the people, or nation, as is the case with the Aborigines of North America. In ancient Germany, no one man was enabled to acquire any permanent property in any distinct portion or parcel of the soil." – (Sir F. Palgrave, *English Commonwealth*, I. 71.)

8. In Ireland a few centuries ago, the tribal right was even more strongly recognised than it is now amongst the New Zealanders.

"On the decease of a proprietor, instead of an equal portion among his children, as in the gavel kind of English law, the Chief of the Sept made, or was entitled to make, a fresh division of all the lands within the district, allotting to the heirs of the deceased a portion of the integral territory along with the other members of the tribe. The policy of this custom doubtless sprang from the habit of looking on the tribe as one family of occupants, not wholly

divested of its original right by the necessary allotment of lands to particular individuals."

(Hallam, *Constitut. Hist.* chap. 18.)

9. Among our Anglo-Saxon Fathers, we notice the actual transition from the earlier to the more advanced state of things – from Clanship to Nationality.

Their land was either folkland or bookland.

"Folcland, as the word imports, was the land of the folk or people. It was the property of the community. It might be occupied in common, or possessed in severalty; and, in the latter case, it was probably parcelled out to individuals in the folc-gemot, or court of the district, and the grant attested by the free men who were then present. But, while it continued to be folcland, it could not be alienated in perpetuity, and therefore, on the expiration of the term for which it had been granted, it reverted to the Community, and was again distributed by the same authority.

"Bocland was held by book or charter. It was land that had been severed by an act of government from the folcland, and converted into an estate of perpetual inheritance. – It might be alienable and devisable, at the will of the proprietor. It might be limited in its descent, without any power of alienation in the possessor. – It was forfeited for various delinquencies to the state." (Hallam, *Middle Ages*, Suppl. Note, 140.)

Folcland, then, corresponded to the Native

Tenure; Bookland, to the Tenure under a Crown Grant.

10. The Treaty of Waitangi carefully reserved to the Natives all then existing rights of property. It recognised the existence of Tribes and Chiefs, and dealt with them as such. It assured to them "full, exclusive and undisturbed possession of their lands and other properties which they may collectively or individually possess, so long as it is their pleasure to retain the same." This Tribal right is clearly a right of property, and it is expressly recognised and protected by the Treaty of Waitangi. That Treaty neither enlarged nor restricted the then existing rights of property. It simply left them as they were. At that time, the alleged right of an individual member of a Tribe to alienate a portion of the land of the Tribe was wholly unknown.

The rights which the Natives recognised as belonging thenceforward to the Crown were such rights as were necessary for the government of the country, and for the establishment of the new system. We called them "Sovereignty" the Natives called them "Kawanatanga" "Governorship."

This unknown thing, the "Governorship," was in some degree defined by a reference to its object. The object was expressed to be "to avert the evil consequences which must result from the absence of law." To the new and unknown office they conceded such powers, to them unknown, as might be necessary for its due exercise. To themselves they

retained what they understood full well, the "tino Rangatiratanga" "full Chiefship," in respect of all their lands.

These rights of the Tribes collectively, and of the Chiefs have been since that time solemnly and repeatedly recognised by successive Governors, not merely by words but by acts. For, through the Tribes and through the exercise of the Chiefs' power and influence over the Tribes, all the cessions of land hitherto made by the Natives to the Crown, have been procured.

II. THE WAITARA PURCHASE.

II. THE WAITARA PURCHASE.

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1. The Valley of the Waitara River lies about 10 miles to the Northward of the Town of New Plymouth, in the Province of Taranaki, and about 4 miles beyond the Northern boundary of the land settled by the English.

Previously to the year 1827, the Waitara valley and considerable tracts, but North and South of the valley, were occupied by the Ngati-awa Tribe. They held it by unbroken descent from remote ancestors.

About the year 1827, part of the Tribe migrated to the Northern side of Cook's Strait, (Waikanae, and the neighbourhood,) being desirous of trading with the European vessels which were beginning to visit those parts. William King's father was the leader of the party.

2. About 1830, the Waitara and a large tract of country to the southward of it was over-run by an

invasion from Waikato. A large pa of the Ngati-awa, Pukerangiora, 4 or 5 miles up the Waitara valley on the southern side of the river, was stormed with great slaughter. Of those who escaped, the greater part fled to Cook's Strait to join their brethren. A few, about fifty or sixty, found a refuge in the Sugar Loaf Rocks, near the site of the present town of New Plymouth. It is said that the Waikato invaders intended to occupy the land which they had over-run – that a partition amongst the conquering Chiefs was actually made immediately after the conquest, and the boundaries marked. But it is quite certain that such intention was never carried out. The Waikato invaders did not occupy or cultivate the Waitara valley. The refugees in other places, wheresoever they were scattered, never abandoned their claim or their intention of resuming possession of the land of their fathers. One instance of this feeling is recorded by Colonel Wakefield.

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"The Natives here (Queen Charlotte's Sound), some of the ancient possessors of Taranaki, are very desirous that I should become the purchaser of that district, in order that they may return to their native place without fear of the Waikato tribes." [Journal, 2nd Nov, 1839.]

Another instance occurred about the year 1842, when Te Pakaru, one of the Waikato invaders, proceeded to the Waitara for the purpose of taking possession, and commenced felling timber. William King sent a deputation from Waikanae to warn him

off; upon which, Te Pakaru withdrew and returned to Waikato.

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3. In 1841, the settlement called New Plymouth, was planted. The circumstances are thus stated by Mr. F. A. Carrington, (formerly Chief Surveyor of that Settlement,) in a letter to the Earl of Shaftesbury, dated New Plymouth, 12th July, 1858. (Taranaki Land Question, p. 9.)

"I arrived in New Zealand in December of that year [1840], and after conferring with Colonel Wakefield, the Agent of the New Zealand Company, and having explored several hundred miles of the coast of the Northern and Middle Islands, I finally selected the Taranaki district, now known as New Plymouth, for the Company's settlement. Prior to this, however, agents of the New Zealand Company landed on the coast and treated with the resident aboriginal inhabitants – the only people then occupying the country – agreed with them as to price and paid them in part for the land."

"Quickly it became known to the Waikatos that white people were settling in this part of New Zealand; then some two hundred of them made a descent on the country, put forth their claim to the land, and, in the name of their Chief, threatened to occupy it. This threat was averted by Governor Hobson purchasing from them their rights and claims to this territory."

In 1841, Potatau, (then commonly called Tewherowhero,) received, in satisfaction of the claim of

his Tribe, money and goods to the amount of about £500.

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4. The fear of a second invasion being now removed, the refugees began to re-occupy the land. Many disputes arose between them and the settlers who claimed under the New Zealand Company.

In 1844, the Land Claims Commissioner, Mr. Spain, investigated the New Zealand Company's title, and reported in favour of it, recommending that a Crown Grant should be issued to the Company to the extent of their claims. Mr. Spain had assumed that the enslaved or fugitive members of the Ngati-awa Tribe had, by their captivity or absence, lost all claim to the land. This doctrine was denied by the Governor's Chief Adviser in Native Affairs, Mr. Clarke, then Chief Protector of Aborigines. The Governor acted on the opinion of Mr. Clarke. Accordingly on the 3rd of August, 1844, a large meeting of English and Natives was assembled at New Plymouth, to hear the final decision of the Governor. The Governor informed the Assembly that "he did not take the same view of the question as Mr. Commissioner Spain, and that he should not confirm the award." "He would allow in all their integrity the claims of those of the Ngati-awa tribe who were not parties to the sale in 1840." (Papers E. No. 2. p. 13.)

In consideration of a further payment, the Natives interested in the piece of land on which the town had been planted, gave up all claim to that site, and

the adjacent land, 3500 acres in all. The Governor publicly and officially recognised the right of the ancient owners to resume the rest of the district, including the Waitara.

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William King and his people still remained in Cook's Strait. In the year 1846, when Te Rangihaeata was in arms against the Government, William King took up arms in our favour, and was the leader of our Native allies. In 1848, William King and his people returned to the Waitara.

5. The town of New Plymouth has no harbour. From the first, Mr. Carrington saw clearly the value of the Waitara. On the 15th Oct. 1841, he wrote as follows to Captain Liardet, then Agent of the Plymouth Company: –

"The boundary line which the Governor has been pleased to order for this Settlement excludes the most valuable, and indeed the very piece of country which was the cause of my giving preference to this part of the New Zealand Company's land. I told Colonel Wakefield at the time I chose this place, that I intended fixing the town at the River Waitara; but, from unforeseen causes, I was obliged to place it where it is, about two miles east of the Sugar Loaves, and ten miles west of the Waitara. If we are deprived of this river, we lose the only harbour we have for small craft, and also the most valuable district for agriculture; in lieu of which we shall have a dense forest which will require much capital, time, and labour to clear. Forest timber comes within a quarter of a mile of the town boundary, runs parallel with the shore for a few miles, then gradually bears away inland, and opens out the dis-

tract of country round the Waitara, where I intended to lay out the majority of the sections. In fact I am now cutting a base line from this place to that river, for the express purpose of so doing.

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"I close this letter entreating that you will submit for His Excellency's consideration the subject herein contained. If we are deprived of the Waitara district, and are obliged to cultivate the most impenetrable forest, I, in this case, see no hope for this Settlement. If, on the other hand, we are permitted to retain the Waitara land, we shall flourish." {Land Question, 6.)

Efforts have been constantly made to induce the Ngati-awa to sell the Waitara, or some part of it, to* the Government. They have all along steadily refused to sell.

In 1844, (17th Dec.) Mr. McLean wrote thus to Chief Protector Clarke: –

"The Natives of the Taniwha and Waitara, who occupy the Northern portion of the land claimed by the New Zealand Company, have not shown at any time an inclination to dispose of the land in their neighbourhood; nor do they consider themselves empowered to negotiate for the same, without the consent of several absentee Chiefs, residing at Kapiti, who own the greater portion of the land. They do not acknowledge the claims of the Company to any part of that district; they never received payment, and were not cognizant of a sale thereof, and will not be induced to suffer European settlers to establish themselves there." (Parl. Pap. 8th April, 1846.)

6. At a Meeting held at Taranaki, on the 8th of March, 1859, the Governor being present, the Native Secretary, on behalf of the Governor, stated:

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"The Governor thought the Moaries would be wise to sell the land they cannot use themselves, as it would make what they could use more valuable than the whole; but that he never would consent to buy land without an undisputed title. He would not permit any one to interfere in the sale of land, unless he owned part of it; and, on the other hand, he would buy no man's land without his consent."

At this Meeting, Te Teira offered to the Governor a block of land, about 600 acres, on the southern bank of the mouth of Waitara. On the block stood two pas, in which William King and his people were then residing, and had been so for years past. William King being then present, said: "Listen, Governor. Notwithstanding Teira's offer, I will not permit the sale of Waitara to the Pakeha. Waitara is in my hands; I will not give it up. I will not. I will not. I will not."

The Governor accepted Teira's offer, subject to his shewing a satisfactory title.

It does not appear that William King stated anything further at that time, as to the nature of the right which he claimed. Nor indeed was that the time or place for so doing. The question of the title to the land was not to be discussed then and there in the presence of the Governor. It was expressly reserved for inquiry.

III. THE POINTS IN DISPUTE.

III. THE POINTS IN DISPUTE.

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So imperfect are the documents laid by the Governor before the Houses of Assembly, and so limited the evidence received by the House of Representatives, that even now it is not easy to gather what were the precise points contended for by the agents of the Government, on the one side, or by William King and his people, on the other.

1. Two documents were put forth by the Government about the time of the Governor's sailing for Taranaki, at the end of February last, which purport to set forth the Government view of the case. They are both reprinted in Papers E. No. 3. p. 19.

There is a remarkable difference between the two. The former relies on the Cession by Potatau. It treats the Government claim as made up of two elements – the Cession by Waikato, and the title made over to the Governor by Teira and the other sellers. The latter document relies on the title of Teira only, and says nothing of the Cession.

In some points both agree. Both the documents assume it to be clear that all the individual owners had concurred in the sale.

2. In the first place then, what was the nature and effect of the Cession by Potatau? The Waikato invasion had swept like a flood across the country of the Ngati-awa and of the Taranaki tribes to the South. The latter tribes, however, had suffered less than the former, and had not been actually scattered

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and driven off. Their occupation of the land was never interrupted. Yet the Cession purported to cover the whole of the territory so overrun, extending from Tongaporutu, 10 miles south of Mokau, to the Waitotara River, near Whanganui, that is to say, about one hundred and fifty miles of coast. Now, according to Maori usage, it was necessary that the conquering tribe should hold possession of the conquered territory, in order to establish a valid claim or title to it. As soon as they ceased to occupy, the original owners re-occupied. Even if the invaders occupied the land, the conquered tribe were held to be justified in doing their utmost to recover possession, if possible, of their fathers' land. Nothing but their utter inability to do that, made the title of the conquerors complete.

Thus, for example, the Ngapuhi, under Hongi, overran the South of this Island. Whole tribes were driven off their land, and did not venture to return for years. The invaders, however, did not take possession of the land of those tribes, and consequently they have never put forward any claim in respect of it. The only two Waikato Chiefs who signed the deed of Cession to Captain Hobson, namely, Potatau, and his brother Kati, had been themselves driven out of their own territory by Nga puhi.

Governor Hobson's own view of the matter is to be gathered from his Despatch, Dec. 15, 1841.

"The Waikato tribe, under the Chief Tewherowhero,

are extremely powerful. They conquered and drove away the Ngati-awas from Taranaki, in 1834, leaving only a small remnant who found refuge in the mountains of Cape Egmont; and having pretty well laid waste the country, and carried off a large number of slaves, they retired to their own district, on the banks of the river Waikato. It appears that in 1839, Colonel Wakefield visited the country and bought a considerable portion of it from the few Ngati-awas who had resumed their habitations on the retreat of Tewherowhero.

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"Now, Tewherowhero claims the country as his by right of conquest, and insists on it that the remnant of the Ngati-awas are slaves; that they only live at Taranaki by sufferance, and that they had no right whatsoever to sell the land without his consent. In illustration of his argument, he placed a heavy ruler on some light papers, saying, 'Now, so long as I choose to keep this weight here, the papers remain quiet, but if I remove it, the wind immediately blows them away: so it is with the people of Taranaki alluding to his power to drive them off.

"Tewherowhero certainly has a claim on the land, but not a primary one; as the received rule is, that those who occupy the land must first be satisfied. But he is the most powerful Chief in New Zealand, and I fear will not be governed by abstract rights, but will rather take the law in his own hands.

"I had hopes, until a few days ago, that he would consent to take a moderate compensation for his claim."

That which Potatau really possessed was the power to overrun their land a second time. It was might, not right: – the might of a successful invader, and nothing more. According to Native usage, the Waikato tribe had an interest in certain spots

where their Chiefs had been slain, and which had thereby become tapu. Beyond that, they had no further right in the soil.

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We could not expect William King to admit any right in Potatau. He was not bound by a transaction between Captain Hobson and that Chief. He could not possibly doubt the title of his Tribe to land which the invader had never occupied. We ourselves recognised their ownership, when Governor Fitzroy, in 1844, allowed "in all their integrity" the claims of those of the Ngati-awa who were not parties to the sale in 1840. We have again and again recognised it, by our subsequent purchases of blocks of land within the region which Potatau relinquished. It was recognised by the Government itself in this very transaction, in the purchase of Teira's land. For if Potatau's claim were good for anything, it was equally good against Teira as against William King.

3. However the claim of Potatau may be defined, it is plain that it could not be equivalent to the rights of the Chief, or of the Tribe, as distinguished from those of the individual holder. Nor could the relinquishment of his claim put the Governor in the same position as if the Chief and Tribe of Ngati-awa had assented to Teira's sale to the Governor. The right or might, of the conqueror or successful invader was wholly outside of the Tribe. If it prevailed at all, it prevailed absolutely, displacing the Tribe altogether, and sweeping away all rights of the Tribe,

of the Chief, and of the Clansmen alike. If it was withdrawn, and the Tribe returned, they returned of course to all the rights they possessed before the invasion, and in the same measure and manner as before; the individuals to their rights, the Tribe to their right, the Chief to his. They enjoyed their own again as of old. Their old rights and their old relations to one another, were necessarily resumed. They knew of none other.

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Why then, was this claim, so long ago abandoned, set up again by the Government? It must be presumed to have been done for a purpose of policy to disarm any opposition which might be apprehended from the Chiefs of Waikato, for they would naturally be indisposed to disparage their own Cession. Its real value has been candidly stated by Mr. Richmond. "This deed was relied upon, as at all events, precluding the interference of Waikato in the Taranaki Question" [Papers E. No. 3. p.

35.] In that way it has not been without its use.

4. The point then, on which the Government really relied, was that which alone is mentioned in the second document, namely, the position that the individual native cultivators and occupiers of the block of land could make a title without the consent of the Tribe or Chief. From the stress laid upon the admission stated to have been made by William King that the land belonged to Teira, it is plain, that it was assumed by the Government that if Teira's right existed at all, it was of necessity an

absolute right, excluding all control over his acts by the rest of the Tribe or the Chief.

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That it was the purpose of the Government to disregard all claims but those of the individual holders, is clearly shown in two official letters written on the 2nd April, 1859. Teira had written to the Governor on the 15th March, saying: –

"Friend. It is true I have given up Waitara to you; you were pleased with my words, I was pleased with your words. It is a piece of land belonging to Retimana and myself; if you are disposed to buy it, never mind if it is only sufficient for three or four tents to stand upon, let your authority settle on it, lest you should forget your child Teira."

The Assistant Native Secretary wrote in answer:

"The Governor consents to your word, that is, as regards your own individual piece, but be careful that your boundary does not encroach upon the land of any person who objects to sell; that is, let it not be included within the boundaries of that land which you publicly offered to the Governor in the presence of the Meeting held on the 8th day of March; but consent will be given to the purchase of land that belongs to yourself."

The same Officer wrote on the same day to William King:

"Word has come from Te Teira, offering for sale his piece of land at Waitara. The Governor has consented to his word, that is as regards his own individual piece, not that which belongs to any other persons. The Governor's rule is, for each man to have the word (or say) as regards his own land; that of a man who has no claim will not be listened to." (Papers E. No. 3. pp. 4 & 5.)

The seller was cautioned not to include in his offer any land belonging to any other member of the Tribe. It was at the same time intimated to the Chief, that no claim, but that of the individual holders, would be allowed; that no right would be recognised in the Tribe, or in the Chief.

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The original principle stated in the Governor's speech at Waitara, now acquired a distinct meaning. In themselves, those words of the Governor were very general and vague. They appeared to enunciate little more than this, – that a man, who had no lawful right to interfere, should not be allowed to interfere. Persons who read these words at a distance, supposed them to refer to an apprehended interference of the King party from Waikato. On the spot they were better understood. The contemporaneous and subsequent proceedings of the Government furnished the interpretation. They were seen to be aimed, not against the interference of strange Tribes and strange Chiefs, but against the rights of the Tribe itself, and against the interference of the Chief in the affairs of his own Tribe. That which was darkly intimated by the Governor, was broadly and plainly put forth by Mr. McLean, in the following notice, given to some of the Waitara Chiefs about the same time. (E. No. 4. p. 17.)

Nga Motu, March 18th, 1859.

FRIENDS – CHIEFS OF WAITARA.

"Salutations. This is a word of mine to you. That you should make clear your portions of land lying within

the block which has been ceded by Te Teira to the Governor,"

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"You know that every man has a right (of doing as he pleases) with his portion, and no man may interfere to prevent his exercise of this right as respects his portions, for the thought respecting his own is with himself. This is a word of mine to you, lest you should, without ground, interfere with Te Teira and Te Retimana's portion, as they have consented to sell their portions in the presence of the people, and in open daylight; and the arrangements with him respecting his (land) will shortly be completed. We do not press for what belongs to others, because the thought respecting his own piece is with each.

"Now do not you be displeased with him without a cause, for his arrangement will tend to make matters clear."

TO WIREMU KINGI WHITI, WIREMU NGA WAKA, PATUKAKARIKI, and to all the men of Waitara.

5. Was the principle thus enunciated by the Government, intended to apply to all the Native Tribes throughout the Island, or to the Ngati-awa Tribe only? The earliest statement, by the Governor himself, of what was supposed to be the rule as to the alienation of Maori land, is to be found in the Despatch of 29th March, 1859: "The right to sell land belonging to themselves, without interference on the part of the Chiefs (not having a claim to share in it) is fully admitted by Maori custom." In the Governor's views then, the supposed rule did not rest on any special circumstances connected with Taranaki or the Ngati-awa Tribe, but on Maori custom in general. And as a general principle it was under-

stood by the Colonists at the time. No one can have forgotten how the "new policy" was vaunted in the newspapers. It was a great step in advance, that abrogation of the tribal right. It was noble and chivalrous – a deliverance of the oppressed – the suppression of a sort of feudal tyranny. Moreover it was profitable. Large tracts of land were to be obtained by means of it. That the same view of the meaning of the "new policy," was taken at New Plymouth, appears from the following passage in a Memorial presented to the Governor by the Provincial Government and Settlers of Taranaki, 25th April, 1860. (E. No. 3. p. 43.)

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"The opposition of Wiremu Kingi to the sale of Teira's land has been uniformly based by him, not on any unsatisfied claim on the said land of his own, or of any other member of the tribe, but on his pretensions, as Chief, to control the sale of all lands belonging to his tribe. The exercise of such an authority, with the consequences necessarily flowing from it, is incompatible with Her Majesty's Sovereignty in this Colony, and most fatal to the interests of both races.

"The present war has been undertaken by your Excellency, in consequence of your determination to uphold Her Majesty's Supremacy, in opposition to the aforesaid rights claimed by the Chiefs of tribes; and the conclusion of any peace with Wiremu Kingi, or any other native Chief, by which the aforesaid pretensions are not finally annulled would therefore, in the opinion of your Memorialists, be tantamount to a declaration that Her Majesty's Supremacy cannot be maintained in these Islands."

Thus the Government policy was understood by

the Provincial Government and the Settlers of Taranaki, at the time and on the spot, witnessing all that was said and done, and deeply interested therein.

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The Memorial is referred to only to show the persuasion of those who signed it. It is unnecessary to discuss the arguments used by the Memorialists. Yet, if it was land "belonging to the tribe," how was the tribe to act in respect of its land, but through some mouth-piece or representative? and who could that be, except the Chief? As to the alleged incompatibility of the Claim with the Queen's Sovereignty, the Queen's Governors for 20 years had not discovered it; but, on the contrary, had recognised that claim in all their dealings. In fact, the right is a simple right of property which concerns the enjoyment and alienation of land, and that only, and has nothing whatever to do with Government or Administration. It is just as much, and just as little, incompatible with the Queen's Sovereignty as is the ownership of land in England by Corporations, Companies, or Partnerships.

Nor did the Government at that time disavow the intention of applying their principle to other parts of the country, though a fair opportunity for disavowing it was offered. The Provincial Council of Hawke's Bay passed a Resolution, 20th March, 1860, "thanking His Excellency for his equitable and open declaration of policy," and, expressing "the hope that such policy will be for the future everywhere alike steadily and zealously adhered to."

The Governor, in answer, after thanking the Council for their expressions of confidence, simply said, "It may be satisfactory to the Council to know that the policy in question has been approved by Her Majesty's Government." (E. No. 3. p. 39.)

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The Natives, also, have understood the Government policy as one of universal application, and much irritation has been the consequence. A short time ago, one of the leading men of Waikato was asked, why certain Chiefs, who had been invited by the Governor, did not come to the Meeting at Kohimarama. He answered, "One reason was that the Governor had caused the word of the individual to prevail against that of the Tribe." (ta Kawana whakamanangi i te kupu a te tangata kotahi.) Other Tribes apprehended, that they, in their turn, will have to go through the same struggle as the Ngati-awa are now passing through. They regard the Governor's words as involving a declaration of war (sooner or later) against all the Chiefs and all the Tribes who may not be willing to submit to this sudden and sweeping revolution in their social state. The disquieting effect of such a belief as this on the minds of the natives is exceedingly great.

In a recent letter, dated 5th September, 1860, Mr. Stafford, Colonial Secretary, conveys to the Bishop of New Zealand "the assurance that the Government does recognise (to the fullest extent) all lawful rights of the Chief and Tribe which have been recognised by former Governments, or have ever been

understood to exist." Whether any similar assurance has been conveyed to the leading Native Chiefs, does not appear.

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To those who concur in Mr. Richmond's opinion concerning the Waikato Cession, it is still extremely difficult to discern on what ground the tribal right of Ngati-awa is denied, whilst the like right in other Tribes is admitted. And it must be deplored, that the enunciation of the Government principle was not so clear and definite in the beginning as to preclude the possibility of misunderstanding.

6. We now proceed to gather (as well as we can) the Native view of the case.

The official document records only two statements as having been made by William King, one in the presence of the Governor, on the 8th of March, 1859, and the other on the day when the first instalment was paid. The former has been cited above, in page 20. In the latter, William King admitted, that Teira and his party were owners of some land in the block, but claimed the right of preventing their alienation of it. The words used, as reported by Mr. Parris, were, "The land is theirs, but I will not let them sell it." (E. No. 3. p. 21.) The former was made before the inquiry began: the latter after the inquiry was closed. What came out during that inquiry is even now very imperfectly known to the public.

Some light is thrown on William King's view of the case by the following letters:—

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WIREMU KINGI TO THE GOVERNOR.

(Pap. E. No. 3. p. 6.)

Waitara, 25th April, 1859.

Friend,

Salutations to you. Your letter has reached me about Te Teira's and Te Retimana's thoughts. I will not agree to our bedroom being sold, (I mean Waitara here), for this bed belongs to the whole of us; and do not you be in haste to give the money. Do you hearken to my word. If you give the money secretly, you will get no land for it. You may insist, but I will never agree to it. Do not suppose that this is nonsense on my part; no, it is true, for it is an old word; and now I have no new proposal to make, either as regards selling or anything else. All I have to say to you, O Governor, is that none of this land will be given to you, never, never, not till I die.

I have heard it said that I am to be imprisoned because of this land. I am very sad because of this word. Why is it? You should remember that the Maories and Pakehas are living quietly upon their pieces of land, and therefore do not you disturb them. Do not say also that there is no one so bad as myself.

This is another word to you, O Governor. The land will never, never be given to you, not till death. Do not be anxious for men's thoughts. This is all I have to say to you.

From your loving friend,
WIREMU KINGI WHITI.

Any doubt as to the meaning of this letter will be removed by comparing it with the language of the official letter, 2nd of April, (cited above, page 26,) to which it was an answer. This letter recognised the rights of the individual tribesmen, and refused

to recognise any other rights. The answer asserted the tribal right.

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WIREMU KINGI TO ARCHDEACON HADFIELD.¹

Waitara, July 2, 1859.

Mr. Hadfield,

Greeting to you, the eye of my fathers who are dead. Great is my love to you from the midst of the sayings of the Pakeha, for the wrong sayings of the Pakeha are continually uttered to me, therefore my thoughts of love go forth to you, that you may speak a word to the Governor and McLean concerning the course of proceeding about Waitara here, because they two are continually urging forward the purpose of the man who is disposing of Waitara. Do you listen, my purpose is no new purpose as you know: it is this, concerning Waitara. I am not willing that this land should be disposed of. You must bear in mind the word of Rere (William King's father), which he spoke to you and Mr. Williams when you two came to Waikanae. You know that word about Waitara; I will not dispose of it to the Governor and McLean. Moreover you heard my word to you when you came to see us. I said to you, "The trouble after you go will be the land." You answered, "The matter rests with Parris." He has now lifted up his heel against me. This is his word to me: "It was through me that you escaped." The

word of him and Halse has now been uttered to me that I should be apprehended for my holding back the land, because it is a very bad thing in their opinion to hold back the land. On this account the word of all the Pakehas has been uttered that I am the very worst man. I do not indeed know my fault. If I had taken land from the Pakeha, it would

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be right to call me bad: or again, if I had beaten a Pakeha, it would be right to blame me. But now it is they who are bringing trouble upon me, therefore I think you should concern yourself with the Governor and McLean and Parris. Speak a word to that Pakeha Parris. His importunity with McLean is great, for I have heard that the price for Waitara here has been agreed upon by him. Another thing he says is that they, the Pakehas, will not listen to my words. What they say now is, that although it be only one man who gives up the land, the Pakehas will be perfectly willing. Do you listen. Now this will be wrong, very wrong, very wrong. What I say is that the boundary for the Pakeha is settled, (namely) Waitara. That is all, let them remain there. Let your word to the Governor and McLean be strong, that they may cease their importunity for Waitara here, that we and the Pakeha may live in peace. Do you write to me that I may hear. That is all I have to say.

From WIREMU KINGI WHITI.

WIREMU KINGI TO ARCHDEACON HADFIELD.

Waitara, December 5, 1859.

Friend Hadfield,

Greeting to you, the eye of my fathers and my younger brothers who are dead. Here am I living in the great mercy of our Lord Jesus Christ.

My father, do you hearken. I ask you this question, that you should explain to me the new plans of the

Governor which I heard from Parris when I went to the town to stop the Governor's money intended as payment for Waitara, namely, one hundred pounds, £100 0 0. I said to that Pakeha, "Friend, keep back your money." That Pakeha answered, "No." I said, "There is no land for your money to light on." Parris then said to me, "It is a bad business. If the Governor comes, it will be a very bad business." I said, "Very well, you may bring the evil, I shall content myself with the land." I also said to Parris, "In the case of land about which there is a difficulty, the Governor will not consent." That Pakeha said, "Formerly it was so, but now this is a new plan of the Governor's." According to my suspicion, the Governor is seeking ground for a quarrel, because death has been clearly set before me. Therefore the question is put to you, that it may be made plain by you. You have perhaps heard of the present new arrangements of the Governor, with a view to groundless anger and continual pressing for land about which there is a difficulty, and unwarrantably paying for land about which there is a difficulty, and which has not been surveyed. Do you listen to me. I will not give up the land. The Governor may strike me without cause and I shall die; in that case there will be no help for it, because it is an old saying, "The man first, and then the land;" therefore my word has been spoken. Listen carefully to my fault, and the fault of all the Pakehas, of Parris, of Whitely, and of the Governor. They say that Teira's piece of land belongs to him alone. No, that piece of land belongs to us all; it belongs to the orphan, it belongs to the widow. If the Governor should come to where you are, do you say a word to him. If he will not listen, it is well: because I have clearly heard their manner of talk about death. Parris and Whitely declared it to me. That is all.

From me, your loving friend,
WIREMU KINGI WHITI.

In these letters of William King, both in the statement which he did actually and directly make to the Governor, and in the statement which he sought to convey through Archdeacon Hadfield, there is a clear and unambiguous claim on behalf of his whole Tribe. He maintains that the land cannot be alienated without the consent of the whole Tribe. As the whole Tribe has not consented, he, as their Chief, expresses their dissent.

It cannot be inferred from this that William King did not assert also some individual claim to land within the block; but, as a Chief, he put prominently forward the right of his Tribe. According to Native law, their dissent was a sufficient answer, and precluded all minor questions.

7. We have seen that in the official statement it is assumed that all the members of the Tribe who had an interest in the land had concurred in the sale of it to the Government. This is not admitted on the part of the Natives. The existence of such dissentients is indicated by Teira's own letter to the Governor, of the 20th March, 1859, (Papers E, No. 3, p. 4), in which he says: "Your word advising them to mark off their own pieces of land within our line (boundary of the block offered by Teira) they have received, but they do not consent, I consent, because it is correct." The following documents shew distinctly that there are divers persons who aver that they are interested in the land, and that they never agreed to the sale.

RITATONA TE IWA, a Native Teacher of Waitara, to the Rev. RIWAI TE AHU, Deacon of the Church of England, at Waikanae.

Waitara, December 5, 1859.

Riwai,

Greeting to you, friend, and your fathers and your children. Greeting to you and our father, Hadfield, the father of the mercies of God, who dragged out this people from the evils which you now hear of. Well, the nose has scarcely come out into the daylight, when it is plunged again by evil into death. Now this is the matter about which we, your fathers and the people, are troubled. Listen. Waitara has been bought from Teira by the Governor, that is by Parris, for £100. The land was not surveyed, the payment was given without anything being done. We objected and objected, but that Pakeha did not listen. We said, "That is wrong." He said, "How can I help it? The word is the Governor's." We said, "The former word of the Governor said, that he would have nothing to do with disputed land." That Pakeha replied, "But that was his word formerly; now, there is no rule. It is well, if you bring evil." We answered, "All we intend is, that the land shall not be given to you and the Governor." He said, "That is death." That is the end of these words. Now, friend, listen. This is wrong; therefore I seek a course of action from you and our Pakeha Hadfield, a word to me that it may be light. This is my word for you to tell him. Will it not be well that the Governor's money should be repaid? We will carefully repay it to the Governor. If Hadfield should consent when you tell him, make haste and write that my thoughts may be at rest. The reason why I write thus to you two is, that I feel a concern for the Pakehas who are

living in peace, and for the Maories also who are living in peace, lest they be dragged by his evil deeds and get into trouble; because I am certain they will get into trouble. It is for this cause I write to you that you may tell Hadfield, and that he may tell the Governor when he comes your way. If you two can arrange it, write; if not, also write: I mean this one point, whether he is not willing that his money should be repaid. If he is willing, it will be well. Nevertheless, let our friendly efforts be put forth. If you send word that it is right, you will receive another letter.

That is all, from your loving father,
RITATONA TE IWA.

RITATONA TE IWA to Rev. RIWAI TE AHU.

Waitara, February 11, 1860.

Riwai,

Greeting to you, my son, and to our father Hadfield. Greeting to you and your fathers and the people. Friends, Companions, Mothers, farewell, and abide where you are with the

people of your friends and your fathers. Listen, Riwai, and your fathers, and the people, and our father Hadfield. Here is death. I mean Waitara. The Pakeha is now taking it. On this account it was that I wrote to you and Hadfield, that you two should speak to the Governor. This it is which has now come upon the knees of us and your fathers. But we and Wiremu (Kingi) are waiting for the fulfilment of your word, that Mr. Hadfield should write to the Governor. Nevertheless do you two speak to the Pakehas of Port Nicholson, because we consider that this trouble has no just ground, because the whole tribe do not consent that Waitara should be sold. But now,

do you and Hadfield listen. Parris and the Major of the soldiers at Waitoki are very importunate. On the 13th day of the present month of February, the surveying chain will come to Waitara. When it comes it will be sent back again. After this it will come back and be sent back again. After this the soldiers will come. Presently, after this letter is gone, there will be a quarrel. But do you listen: all that the people will concern themselves with will be the chain. If the soldiers do not resist, the tents will be returned. If the soldiers do not fire, they will be sent back forthwith; they will not be allowed to alight upon it. But this is all mere talk, because we know that the soldiers go nowhere without an object. When soldiers go on such a business as that, it is to fight. In this case, there will be a quarrel. Do you and your fathers be attentive. Do you tell your fathers, Kiripata, Hohepa, Wiremu Tamihana, and Apakuku. Listen. It is the man first, and afterwards the land. Do you also tell Mr. Hadfield if you should see him. You, Enoka, may tell him that he may hear. This is all I have to say to you.

RITATONA TE IWA.

Statement respecting the Proceedings at Waitara, by TIPENE NGARUNA.

In the course of September, 1858, I arrived at Waitara. I stayed there during 3 months of 1858, and 3 months of 1859. Teira commenced the sale of Waitara. I did not see Tamati Raru joining in what Teira was doing. The only word of his that I observed, was to keep possession of the land. In the year 1859, our meeting assembled at Te Kuikui, concerning Teira's proceedings. Wiremu Kingi stood up and spoke for retaining possession of Waitara. Wiremu Patukakariki (Ngawaka) stood up and spoke for

retaining possession of Waitara. Tamati Rura stood up and spoke for retaining possession of Waitara. In the same strain spoke the many. Teira stood up, and had no supporter; he was alone.

The second meeting was at Werohia. Wiremu Kingi stood up and spoke for retaining possession of Waitara. Wiremu Patukakariki (Ngawaka) stood up and spoke for retaining possession of Waitara. Tamati Raru stood up and spoke for retaining possession of Waitara; and in the same strain spoke the many. Teira stood up; he had no supporter: he was alone.

The third was the great meeting at Waitoki, in the town. Teira stood up and spoke for disposing of Waitara. He had no supporter; he was alone. Wiremu Patukakariki (Ngawaka) stood up and said: "Governor, Waitara shall not be yielded up to you. It will not be good that you should take the pillow from under my head, because my pillow is a pillow that belonged to my ancestors." Paora Karewa stood up and said, "Listen, Governor. I will not give Waitara to you. It will not be good that you should drag from under me the bed-matting of my ancestor. If I were to drag the bed from under you, you would be angry." Teira gave his parawai to the Governor as a pledge for the sale of Waitara. Wiremu Kingi stood up and said: "Listen, Governor. I will never give my land at Waitara to you – never. That is all I have to say."

On the occasion of our talk at Hurirapa, Teira spoke, and said that his lands outside the boundary should be given in exchange for the lands of the many, which were within the block that was being sold by him. The many said: "Your lands outside the boundary will not be an equivalent for ours, because our lands, which are within the land which is being sold by you, Teira, are far greater."

When the chain was laid (upon the land), Tamati Raru did not join in laying down the chain, nor did he consent.

TIPENE NGARUNA.

Rev. RIWAI TE AHU to the SUPERINTENDENT OF WELLINGTON.

Otaki, June 23, 1860.

Mr. Superintendent,

Greeting to you. This is my speech, listen to it: it is very long; it will perhaps tire you to read it. The reason of my writing at length is because I am perpetually hearing incorrect statements with reference to that land at Waitara, and with reference to Wiremu Kingi. And do not you suppose that it is through anger at Teira that I have written so fully, or that Teira is not connected with me, and that Wiremu Kingi, on the contrary, is a relative of mine. It is not so. My object is to trace out the rights of the case with reference to that land, and the tribes and the owners of the land, that you may know them; because the disturbance has grown serious. It is Teira who is my near relative, but Wiremu Kingi is not a near relative of mine.

Now, we thought that the intentions of this Governor would not be different from those of the other Governors who preceded him. They made attempts to get that piece of land. Now we are perplexed (and say) Well! These are new regulations from our Queen: but we suppose that the Governor has perhaps been deceived by Teira, and his companions, and by his land purchases at Taranaki; and therefore he has so hastily sent his soldiers to Waitara to frighten all the men and the women who drove off his surveyors from the land which was their property and ours, and to take it without paying us. As you may judge from

a statement made by C. W. Richmond, Taranaki, March 1, 1860, which everybody has heard: "Teira's title to that piece of land has been fully investigated. It is quite correct. No one can invalidate his title." True. He has a title, that is to say, to his own cultivations within that block – two or three subdivisions. So also have we a title, as well as those who were driven off that block of land, each man having two subdivisions, or one, or three, or four within the block.

This also is Wiremu Kingi's expression which the Land Commissioner of Taranaki perverted: "Wiremu Kingi admitted that that land belonged to Teira only." It was his strong desire to get hold of the land, and his ignorance of the Maori language, that made him pervert that expression of Wiremu Kingi's. Our opinion of this statement of Mr. C. W. Richmond's is, that the side of Teira and his party only was investigated, and what they had to say listened to by those land purchasers of Taranaki, who crossed over to Arapawa to prosecute the inquiry. The side of Wiremu Kingi's party was not investigated, nor were their statements listened to. As we learn from Wiremu Kingi's letter, which says: "One thing that he said was, that they (the Pakehas) will not listen to my words." This was said to him by the Land Commissioner of Taranaki. (I have that letter by me.) However, I did not believe all that he wrote to us in that year, for I thought that the Government would not go so far as that.

Moreover, they never came to us to inquire. If they had inquired of all parties; if they had heard their statements, continuing the inquiry till they came to us, they would have found out the fault in the statement of Teira's party. Why! their pieces of land lie dotted about among the pieces of all those persons who dissented from the sale, and among ours also who live here. This is what Wiremu

Kingi says in his letter: "The error of all the Pakehas, of Parris, of Whitely, of the Governor. They say that to Teira alone belongs his piece of land. No, it belongs to us all.

That piece of land belongs to the orphan, it belongs to the widow." (His letter is here with us.) If they had done so, the Governor's Land Commissioners at Taranaki would not have falsely told him that they had inquired, and that it was quite correct that that land belonged to Teira only.

We have heard that there are full 600 acres of the land which belongs to Teira and his companions. We concluded that it could not be that land at Waitara, but that it must have been a piece of land lately discovered by Teira and his companions, it was so very large. The reason why Wiremu Kingi and his party made so much objection when Teira began to propose that that place should be sold to the Governor, was the fear lest their land and ours should be all taken together as belonging to Teira. And it happened just as they feared. We have heard by letter from Wiremu Kingi of what the Land Commissioner of Taranaki said, which was as follows: "Their rule now is, that though it be but one man who offers the land, the Pakehas will be quite willing to buy." (His letter lies here.)

Now we do not admit the correctness of these words which we have heard, that the land belonged to Teira, that that land belonged to his hapus, namely, Ngati hinga and Ngati tuaho, and that they gave Wiremu Kingi leave to settle on that piece of land when he came from Waikanae, and that he then for the first time settled there, "that Wiremu Kingi's interference was unwarranted, that the land did not belong to him, and that he had no right to say what he did." Listen. The Pakehas only and Maories of other tribes of this island will consider this assertion as correct. But as for us of the Ngati awa tribe, who live

here at Waikanae, and as far as Wellington, and across the Straits to some who live at Arapawa and as far as Taitapu, we will never admit its truth, nor will we condemn Wiremu Kingi as interfering unwarrantably. The only persons of Ngati awa who will justify Teira and condemn Wiremu Kingi, are those who are deceiving the Governor and the Pakehas.

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Perhaps the Land Commissioners of Taranaki consider that Teira and his party constitute the whole of Ngati hinga and Ngati tuaho, and that the following men do not belong to those hapus, namely, Wiremu Te Patukakariki (the chief of those hapus) Nopera Te Kaoma and others, who dissented from the sale. So their words were listened to by the Land Commissioners of Taranaki. Listen. It was the wife of Wiremu Patukakariki, and their own two daughters, and some other women of those hapus, who drove off the Governor's surveyors from their own pieces of land.

Now that land was not so divided formerly that there should be a distinct property for Ngati hinga and Ngati tuaho by themselves, and that there should be a distinct property for other hapus as Ngati kura and Ngati uenuku, each hapu separately within that block of land which the Governor has got possession of. No. They were all mixed up together. The cultivations were separated by the boundary marks which were placed by our ancestors. These hapus do not form a distinct body from them. They all belong to one tribe.

All these cultivations have names which our ancestors gave them. The name of Wiremu Kingi's cultivation is Te Parepare. The cultivations of his two children which belonged to their mothers are at Hurirapa, the pa which was burnt by the soldiers: and another at Orapa on the south of their old pas. All these cultivations are within

the block which is said to belong to Teira only, and the Governor has possession of them all.

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All the cultivations which belong to us and to those who dissented from the sale, namely, the people of Ngati kura and Ngati uenuku, and some of Ngati hinga and Ngati tuaho, to whatever hapu they belong: the Land Commissioner at Taranaki has treated all these cultivations as belonging to Teira alone. How then can it be said that "they gave Wiremu Kingi leave to settle on that block, when he came from Waikanae?" A fine saying, indeed! No. Each man knew the cultivation of his own ancestor. Was it they who gave Wiremu Kingi leave to cultivate Te Parepare, when he went from Waikanae? Was it they who gave his children leave to cultivate at Te Hurirapa, when they went from Waikanae; which cultivations have been taken by the soldiers? Was it they who gave our ancestors all their cultivations, which I have already mentioned, when they went from Waikanae; which cultivations the soldiers have taken with the edge of the sword? In my opinion this saying is like poison. According to the Land Commissioner of Taranaki, Teira's offer of that land was perfectly just, and Wiremu Kingi was altogether in the wrong. We say that Teira is far more in the wrong, and there is nothing that can hide his fault.

I say in conclusion that I cannot find any words to pacify my tribe, that they may no longer be irritated about our land. They are very sore that the land of our ancestors should be taken without their consent. If that land should be permanently taken, it will be a permanent saying, down to future generations, that that land was violently taken by the Queen of England's Governor.

There are also other sayings of the Pakehas about Wiremu Kingi which I have heard. They say he is a bad man, a drunkard, and a murderer. My reply to this. He

must only just now have taken to drinking at Waitara. When he lived with us at Waikanae, I never saw him purchase a keg of spirits, nor did I see him drunk, – never. Nor have I ever heard that he was a murderer before I was born; and even up to the time of my being a full grown man, I never knew of any man being murdered by him, even up to the time of his going to Waitara..... His father, Rere-tawhangawhanga, was cursed by Ngati-maru at Whareroa in 1837. Then a great war party of Ngatiawa went from Waikanae to Whareroa, to the number of 400. It was owing to the moderation of this old chief that the people of Whareroa were not killed; their potato crops merely were pulled up. I went with that expedition. Was it from Wiremu Kingi's being a drunkard or a murderer that the Land Commissioners of Taranaki concluded that that land at Waitara belonged only to Teira and his party? Or was that the reason of their taking it? Now there is another murderer in the very presence of those Land Commissioners of Taranaki; but they do not call him murderer. On the contrary, they call him "Friend." Why do not they take his land also? Wiremu Kingi and his party did not wish to fight, when Teira received the money in payment for Waitara: hence one of them wrote to me to ask if it would not be a good thing for them to collect money to pay back the money which Teira had received from the Governor, lest our lands should be taken for that money, and, when they hasten forward to retain possession, it should become an occasion for the Governor to quarrel with them. (We have this man's letter lying here.)

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I myself heard formerly the strong injunctions of Wiremu Kingi's father, Rere-tawhangawhanga, at our pa at Waikanae in 1840, that Waitara should not be sold to the Pakeha. Now, that was his continued injunction up

to the time of his death at Waikanae in 1844, when he left the same injunction for Wiremu Kingi to observe after him. When Rere and the old men of Waikanae heard that Nuihine Te Pakaru, chief of Ngati mania poto, was come to clear land for cultivation on the other side of Waitara, (the name of the cultivation was Wharenuhi) the old chiefs said that he should return to his own place, and that Waitara should be let alone for our own use. (I myself heard these words in 1842-43.) None of the Waikato and Ngati mania poto had settled there before the Pakehas came to New Plymouth. Nuihine Te Pakaru was the first. Therefore one of those old chiefs, Ngaraurekau, went from Waikanae to keep possession of Waitara, lest Ngati mania poto should come back, and Ngati mania poto altogether gave up Waitara, even up to the time of Wiremu Kingi's migration thither. (I except Peketahi, who went there on the ground of his wife's title.)

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Further, Wiremu Kingi was a friend to the Pakehas of Wellington. In December, 1843, we went from Waikanae, (having Archdeacon Hadfield with us) and found Haerewaho being tried by Mr. Halswell in the Court House at Wellington. He was found guilty, and was taken to prison. Then all the Maories of Wellington rose up in arms against the Pakehas of the town, but Wiremu Kingi hastened to quiet them, and there was an end of it.

Again, in 1846, there came a message from Governor Grey to Wiremu Kingi, to go to him to Kapiti on board the man of war called the "Castor." We went, and then Governor Grey asked Wiremu Kingi to go to Te Paripari to deter his enemy Rangihaeata. Wiremu Kingi immediately consented. His regard for Rangihaeata did not prevent him. The next day we came across to Waikanae, and Wiremu Kingi immediately urged his people to go to Te Paripari. They slept at Whareroa, and the next day

reached Te Paripari. I also went with him. His party-numbered 140. From thence I returned to Waikanae. He and his party caught eight men from Whanganui who had joined Rangihaeata. When these men were caught, they cried out, "Stop a bit; who knows that you will not be treated in this way in time to come?" Wiremu Kingi bears this

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saying in mind. After this they were taken to Waikanae, and put on board Governor Grey's Steamer. Some of the Pakehas have probably seen these men who were caught by Wiremu Kingi. And where is the help now with which the Governor requites Wiremu Kingi? Wiremu Kingi was always one who upheld the Government. He never in any way recognised the Maori king, up to the time of the fighting about Waitara. This is all I have to say.

Prom your loving friend,
RIWAI TE AHU.

In these documents the grounds of the opposition to the Government are clearly disclosed. The right of the whole Tribe and the rights of individual owners are both maintained. It is averred that the whole Tribe did not consent: – an averment which is not even contradicted by the Government, for the Government has contented itself with ignoring the tribal right.

If anything be plain in the case it is this, that the whole Tribe never have consented to part with the Waitara land. Upon this fact William King stands; and but for this fact, we should, in all probability, never have encountered any opposition. In the case of the Bell block, where every one in-

terested in the block agreed to the sale, William King's opposition was withdrawn. In that case he ceased to oppose, when his people assented. In this, he opposes stedfastly, because his people sted-fastly dissent.

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8. These adverse claims reach us also through other channels.

Dr. Featherstone, the Superintendent of the Province of Wellington, after the outbreak of the troubles at the Waitara, visited some Chiefs of the Ngati-awa who still live in the valley of the Hutt. What took place on that occasion, was thus stated by Dr Featherstone, in his place in the House of Representatives, on the 7th of August last: –

"What," (said Dr Featherstone,) "did you not mean to admit that William King had no title to the land, no right to forbid the sale? The words were scarcely out of my mouth before Wi Tako, Te Puni, and other Chiefs present, cried out "Kahore, kahore. The Governor is in the wrong. Wi Kingi has land in the block, his wife has land, his son also: Te Puni and others (mentioning a great number of names) all own portions of the land sold by Teira." Wi Tako and Te Puni then explained, that the land was divided into small allotments, – that those allotments were marked out by stones, – that many of them (the allotments) had names, and said if we would accompany them to Waitara they would point out the allotments of each individual. Wi Tako added, "Teira had no

more right to sell the 600 acres, than a man owning one acre in Wellington would have a right to sell the whole town."

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Mr Fitzherbert, Member for the Hutt district, also stated in the House, "These (Te Puni and others) are all loyal men; and these statements have been made not only to me, but to others. They have drawn the plan of Waitara on the sand and on paper, and they have pointed out the owners of the several allotments, and they say that William King was right, and that Teira had no title to sell the land."

9. The foregoing documents and statements are not set forth here as if the averments therein were necessarily true. They are only set forth as shewing what is in fact averred by the adverse claimants. That some of those averments are honestly made, I cannot doubt. I have known Riwai Te Ahu for years. At one time I was in the habit of talking with him daily, for months together. He is a very intelligent, and, I believe, a thoroughly honest man.

We are not at liberty to assert these claims to be true, without investigation; neither are we at liberty to assert them to be false, without investigation. They raise plain issues, on which depends the justice or injustice of the course taken by the Government. To ascertain whether they were true or untrue, was the very business and duty of the Government.

How did the Government discharge its duty?

¹ When this and the following documents in the Native language came into my hands, Archdeacon Maunsell and Rev. L. Williams were in Auckland, engaged in revising the Maori version of the Old Testament. At my request, they kindly undertook the task of translation. The great knowledge and painstaking accuracy of those gentlemen, afford the highest possible security for the correctness of the rendering.

IV. THE INVESTIGATION.

IV. THE INVESTIGATION.

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1. The Governor had accepted the offer of Teira, subject to an investigation of the title. If the seller could make a good title, the Governor would buy the land. We have seen that the matters in dispute involved numerous and weighty points, both of law and of fact. Among others, the following questions arose: – "What is the Community, and what the Chief, whose consent is needed? or, if their consent is to be dispensed with, can the Governor lawfully dispense with it? What was the effect of Potatau's Cession? Who are the other claimants, besides Teira and his party? Do they consent? What are their claims? Are those claims valid?

Considering the nature and number of these questions, and the practical consequences that might flow from a conflict between the Government and the Natives, – consequences affecting not only the Settlement of New Plymouth, but the whole Colony: considering also the peculiar relation which the Crown of England has assumed to the Native race, as their guardian and instructor in law and in the arts of peace: it is quite manifest that the occasion demanded the most full and complete inquiry, – an inquiry which should be so large in its compass, so accurate and careful in its several steps, as to leave no room for any reasonable man to question the soundness of the decision. Nothing short of that, could be either just or wise in such a case as this.

2. The persons claiming an interest in the land, were numerous. Some only were on the spot: others were at Waikanae, Queen Charlotte's Sound, or elsewhere.

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These persons too were all British subjects, and entitled to all the "rights and privileges of British subjects," by the Treaty of Waitangi. The assurance thereby given in the Queen's name, has been solemnly repeated many times from that day to this. The last time was only a few weeks ago.

"It is your adoption by Her Majesty as her subjects, which makes it impossible that the Maori people should be unjustly dispossessed of their lands or property. Every Maori is a member of the British Nation; he is protected by the same law as his English fellow-subject; and it is because you are regarded by the Queen as a part of her own especial people, that you have heard from the lips of each successive Governor the same words of peace and goodwill." [Speech of Governor Browne, at Kohimarama, 10th July, 1860.]

No right of a British subject is more clear or more precious than this: that the Executive Government shall not use the force at its command to oust any man from his land or deprive him of any right which he claims, until the question between the Crown and the subject has been heard and determined by some competent tribunal; some tribunal perfectly independent of the Government, wielding the full powers of a Court of Justice, and subject to the same

checks and safeguards. Two things are needed: 1st, that such a tribunal shall exist; 2nd, that it shall not determine the question without giving due notice of the proceedings to the opposite party; so that they may be able to make their answer to the claim, and produce evidence in support of their case.

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This is a fundamental principle of our English Government; not only of our English Constitution, but, of necessity, a fundamental rule of all free and constitutional Governments everywhere. For without it, the subject has no security against the aggressions of the Government. If the Government can decide the matter in its own way, and through its own dependant agents, and then take what it claims, the subject is at the mercy of the Government.

How, then, were these our fellow-subjects dealt with in this case? In what precise mode the inquiry was conducted, is at present unknown: but thus much is apparent, that no such inquiry as was due from the Government to the subject, was ever made.

3. Whatever inquiry has taken place on the subject, was carried on by the Land Purchase Department. It now appears that the main part of the business was transacted by Mr. Parris, the local Commissioner at New Plymouth. What degree of supervision Mr. Parris was subject to, does not appear. It now appears that no inquiry was conducted by Mr. McLean, at New Plymouth, except the preliminary inquiry made by him early in 1859. The regular investigation of the title was left to Mr. Parris.

It becomes therefore necessary to ask what were the qualifications and powers of these officers in respect to this business. Both of these officers are agents of the Executive Government; employed by the Government for the purpose of purchasing land. Both of them were not only general agents for that purpose, but had also been concerned in that very transaction, in negotiating the purchase. One of them, Mr. Parris, as a settler at New Plymouth, had an interest, in common with the rest of the Taranaki settlers, in the opening of the Waitara land. How could these officers, being agents for the purchaser, be fit persons to decide on the validity of all the objections made to the purchase?

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Was William King likely to accept a decision, made upon the authority of persons who now denied his right, after having often practically affirmed it, by using all endeavours to obtain his consent?

Moreover, these officers possessed none of the powers requisite for the purpose of conducting such an inquiry. They had no judicial power or authority whatever: nor was their inquiry (whatever it was) accompanied by the safeguards and checks, which would attend a public and regular judicial investigation. So far as appears, a man who would have been properly challenged as a juryman, has been allowed to act as Pleader, Jury, and Judge; or, to speak more correctly, an irregular and insufficient inquiry before an agent of the Government, disqualified in all the ways above-mentioned, has been put

in the place of that regular, open, and fair trial which every subject of the Crown is entitled to, before his property is taken from him.

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4. We have spoken of the unfitness of the agents in the inquiry. We now ask, what was the mode in which the inquiry was made? What was the extent to which it was carried? We are not in possession of any Minutes of Mr. Parris' proceedings. The only published Report is dated July 16th, 1860, seven or eight months after the inquiry terminated. [Further Pap. E. 3. A. p. 2.] It does not furnish any very clear or full answer to our present question. It is plain that he did not investigate the main question between the Government and William King, viz., – whether there was any tribal right affecting the land, and whether the tribe or community had consented or not. His statement extends only to the individual rights of the sellers on the spot, Teira and the others. If, as appears, the Government had determined to recognise nothing but the individual right, we cannot be surprised if nothing more was inquired into by the agent of the Government. Still it is much to be regretted, that the Government assumed these matters rather than investigated them; especially as the Government assumption on the point was contrary to what was certified by the Board of Inquiry above-mentioned, (p. 9.) and by Mr. McLean, to be the general rule of Native Tenure.

It is also to be remarked that Mr. Parris' in-

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quiry, even as to individual claims, did not extend beyond the sellers on the spot. It was well known that there were other members of the Tribe at Waikanae, as well as at Wellington, Queen Charlotte's Sound, &c. Mr. McLean, the Chief Commissioner, had expressly instructed Mr. Parris personally to visit absentee claimants.

The following is an extract from "Instructions to District Land Purchase Commissioner, relative to Purchase of Land from the Natives at Taranaki," dated Auckland, August 26th, 1857. {Paper E, p. 1.)

"In pursuing your inquiries amongst the resident Natives, you should not appear to attach much weight to the claims of absentees, as it may be assumed that they have acquired a vested interest in lands elsewhere, and should not now be considered as having an equal claim with their relatives who remain in actual possession of the soil.

"At the same time, I am desired to state that it is His Excellency's wish to have a separate investigation of the claims of absentees, instituted at the places where they reside; when they will be settled with, in proportion to the relative merits of their claims, on a basis which will fully preserve the distinction which should be made between resident and non-resident proprietors."

Yet neither Mr. McLean nor Mr. Parris instituted any investigation at Waikanae.

So far as appears, all the notice taken by Mr. Parris of absent claimants was this: – At the time of paying the first instalment to Teira (29th No-

vember, 1859), a declaration was read to the Natives there assembled, that if any person could prove his claim to any piece of land within the block, such claim would be respected. (Pap. No. 3, p. 21.) That declaration does not appear to have been conveyed to any except those who were then on the ground. Nor could it have any legal effect in any case. There was no legal summons, nor any power to take evidence on oath. In short, there was no tribunal.

The following statement has been made by some of the adverse claimants: –

From certain Members of the Ngati awa Tribe to the SUPERINTENDENT OF THE PROVINCE OF WELLINGTON.

Waikanae, July 29, 1860.

Mr. Superintendent,

Greeting to you. These are our words; hear them, that you may declare them openly in the presence of the Governor.

We have portions of land also at Waitara within the piece of land which was wrongly sold by Teira to the Governor; we, as well as those who have been driven off that piece of land. It belonged to all our ancestors. We never heard from the old men who have lately died, that that land belonged only to Ngati tuaho and Ngati hinga, or to the ancestors of Teira and his companions whose pedigree has been lately set forth, or to his father, and that by them it was given to our ancestors and to our fathers as to dependents who should raise food for the ancestors of Teira and his companions, or for his father and the fathers of his companions.

Nor is it land that has lately been discovered by Teira, or by his father or by his companions, that we should be mistaken in what we say about it, or that it should be right to make strong assertions with reference to that land in order to justify their making no account of us and those who have been forcibly driven off it. No. It is old land that belonged to our ancestors.

Now we have heard the defence of Parris' wrong doing with reference to our portions of land there, which says, "A long time was allowed to elapse, and nothing was said about the land: Parris, the Land Commissioner of Taranaki, carefully inquired that he might find out who were the owners of the land which was offered him. Parris searched, and at length he found them out."

These words were intended to excite everybody's admiration, that it might be thought that he really had searched. Listen. We were all the time living at Waikanae; one of us at Otaki. Now Parris never came to make inquiries of us as to whether we had land there or not; nor did any assistant of his in that work come to inquire; nor did he write any letter of inquiry; nor did he, in the course of that year, print in the Newspaper his inquiries as to the owners of that land. None, none at all.

Off goes one of the land purchasers to make inquiries of some people of Arapawa, passing over us without inquiry.

We did not hear of it until the time when Teira received the money. Still we felt no apprehension of losing our lands, because we were continually hearing of the strong declaration of Wiremu Kingi, that he would keep our lands for us. For he is our Chief, a protecting shade for our lands.

The second time was when they went to survey it.

The third time was when the soldiers were sent to take

it. How could we get a word in? When the trouble had become serious, then Parris goes and prints in the Newspaper that he has made inquiry.

We ask this question. What are we, peaceable persons who are not joining in the fighting, to do when our lands are wrongly taken away by the Governor? Where shall we seek a way by which we may get our lands restored to us? Shall we seek it from the Queen, or from whom? We imagined that it was for the Law to rectify wrongs. Up to this time our hearts keep anxiously inquiring. We will say no more.

Prom us, members of Ngati awa, and owners of that land at Waitara.

HOHEPA NGAPAKI. X
KIRIPATA PAKE.
PATIHANA TIKARA.
EPIHA PAIKAU TUPOKI. X
PINAREPE TE NEKE. X
HENARE TE MARAU. X
PAORA MATUA AWAKA.
HUTANA AWATEA.
WIPERAHAMA PUTIKI.
TERETIU TAMAKA.
RIWAI TE AHU.

It is now admitted that the complaint made in the foregoing letter is well founded: that no one authorised by the Government ever did inquire into the claims at Waikanae. Mr. McLean himself visited Queen Charlotte's Sound and Wellington. As to his proceedings at those places, especially at the latter, our information is scanty. But whatever inquiry there might be elsewhere, there was none at Waikanae.

5. The result of the whole inquiry is thus stated by Mr. Richmond, in a Memorandum dated 27th April, 1860, nearly two months after the commencement of military operations at the Waitara. (Pap. E, No. 3, p. 34.) Page 61

"The Native Secretary, Mr. McLean, who, in addition to his general experience, has a special acquaintance with the Taranaki Land Question, dating back to 1844, denies King's right to interfere. The Rev. John Whiteley, Wesleyan Missionary at New Plymouth, and Mr. Parris, the District Land Purchase Commissioner, both of whom have had a long acquaintance with the subject, agree with the Native Secretary. A very valuable testimony to the same effect is furnished by a letter recently addressed to various Chiefs of Waikato and Mokau, by Wi Tako, a Ngati-awa Chief, a translation of which is appended to this Memorandum.

"Wi Tako's evidence carries great weight, as his prepossessions are adverse to the British Government. For some time he has been strenuously advocating the cause of the Maori King; and the letter in question was actually written by him whilst on his return to Wellington from Ngaruawahia, where he had been attending the deliberations of the Maori Council. It is said that he was specially deputed by Potatau to inquire into the merits of the Waitara question."

Mr. Richmond relies, in the first place, on the opinion of Mr. McLean, the Chief Land Purchase Commissioner. It does not appear whether that opinion was expressed before or after the resort to force, nor whether it was expressed orally or in writing. As Mr. McLean did not himself investigate

the title, beyond making a preliminary inquiry early in 1859, his opinion, whensoever and howsoever expressed, must have been founded on Mr. Parris' statements. The only recorded statement of Mr. McLean's opinion, in the papers laid before the General Assembly, bears date 23rd July, 1860. A Memorandum had been made by the Governor, on the 20th July, in the following words: – Page 62

"In order to complete the documents about to be printed for both Houses of Assembly, the Governor requests the Chief Land Purchase Commissioner to answer the following questions: –

"First, – Had Tamati Raru, Rawiri, Rauponga, and their people, such a title to the block of land recently purchased at the Waitara, as justified them in selling it to the Queen?

"Second, – Had William King any right to interfere to prevent the sale of the above block of land at the Waitara to the Queen?"

Mr. McLean answered as follows: –

"Sir, – In reply to your Excellency's Memorandum of the 20th inst., I have the honour to state with reference to the first-mentioned question, as to whether Tamati Raru, Rawiri, Rauponga, and their people, had such a title to the block of land recently purchased at the Waitara, as justified them in selling it to the Queen?

"I believe that the above Chiefs, conjointly with others at the South associated with them in the sale, had an undoubted right of disposal to the land in question.

"With reference to the second inquiry, 'Had William King any right to interfere to prevent the sale of the above

block of land at the Waitara to the Queen?' The question of title has been carefully investigated. All the evidence that has come before me, including William King's own testimony that the land belonged to the above parties, goes to prove that he had no right to interfere; the interference assumed by him has been obviously based upon opposition to land sales in the Taranaki Province generally, as a prominent member of an anti-land-selling league." (E. No. 3a. pp. 4 & 5.) Page 63

As to Mr. McLean's answer to the first question, it is sufficient to refer to the evidence collected in the preceding chapter, which shews that the right of disposal, claimed by the persons named, is open to the gravest doubt. Nothing is stated by Mr. McLean as to the grounds of his opinion.

As to the second question, Mr. McLean naturally upholds his subordinate officer. Beyond that, he expresses a very guarded opinion as to William King's right to interfere; throwing out, in reference to that interference, a suggestion which contradicts the following statement in Mr. Richmond's own memorandum: "that King's stand is really taken upon his position as a Chief;" and that possibly, under different circumstances, "his birth might have given him the command over the Tribe which he pretends to exercise." (Ib. p. 34.) The subject of the land league, to which Mr. McLean's suggestion refers, will be considered in a subsequent chapter.

Next comes the alleged opinion of the Rev. John Whiteley. We have no information as to that gentleman's authority to inquire, or as to the extent of

any inquiry made by him. The only qualification mentioned, namely, residence at New Plymouth, is a questionable one in this case. Mr. Parris' inquiry has been considered above. Page 64

Last comes the letter of Wi Tako. The passage on which Mr. Richmond relies, is evidently that which, in the translation appended to his memorandum, is rendered thus: "you requested me to investigate the subject and send you the truth, which is this. Friends, this wrong is William King's. Another wrong has been committed by Taranaki, greater than all the evils that have been done in the land."

The Native word he, here rendered "wrong," is an exceedingly ambiguous word, expressing anything whatever that goes wrong; any trouble, error, or disaster. These same words "tenei he," rendered in this instance by "this wrong," occur three times in this letter. In the other two instances, they are rendered in the translation appended to the memorandum, "this war." If Wi Tako had intended to say that the Governor was in the right, and William King in the wrong, he must have said, "No Wiremu Kingi te he:" the form invariably used by the Natives in such case. But in fact he was not contrasting William King with the Governor. There is no reference to the Governor in the letter. His business was to ascertain, whether the King party was interested in the quarrel, whether it was necessary or expedient for them to join in it or not. To that point the whole letter refers. He tells his friends

that the quarrel at the Waitara was William King's affair, not theirs: it was a question about land only, and did not concern the Maori king. The following is a correct version of the letter: – Page 65

Waitoki, Taranaki, April 10, 1860.

This is a message from me to Waikato, that you may have a clear understanding about this foolish work of the people of Taranaki. I have come here and have ascertained the grounds of this trouble. It is as follows:—

This is another word. Go, my messenger, to Tikaokao at Tongaporutu, to Wetini at Tarariki, to Takerei at Te Kauri, to Hikaka at Papatea, to Reihana at Whataroa, to Wetini at Hangatiki, to Eruera at Mohoanui, to Paetai at Huitierangiora, to Te Heuheu at Taupo, to Paerata at Te Papa, to Te Ati at Arohena, to Epiha at Kihikihi, to Ihaia at Hairini, to Hoani, to Hori te Waru, to Tamahere, and to Tamihana at Rangiaohia; to Rewi at Ngaruawahia, and indeed to all of you who requested me to give you a correct account. It is this:

My friends) this trouble belongs to Wiremu Kingi. Another trouble belongs to the Taranaki people, greater than all the evils of the world. Let your thoughts be consistent with your promises to me, which we have seen. Friends, your business is to do only that which is right. Do not look in this direction towards the foolish things of the world. Friends, do you listen. Formerly was the wrong; afterwards came the right. The only thing about which you have to concern yourselves, is the word of the great Father in Heaven. I mean, one end of the cord is above, one end reaches down to earth. Let that be our warfare. Let this word of yours to me prove true.

Friends, do you listen. The ground of this trouble con-

cerns the land only. It does not concern the King. Do not you be led astray by the evil spirit. From your faithful friend in the Lord,

WI TAKO NGATATA.

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The interpretation adopted by Mr. Richmond was expressly repudiated by Wi Tako himself in the presence of Dr. Featherstone, as we have seen above, (p. 50.)

It is to be observed, that Mr. Richmond's remarks are confined to the question of William King's right to interfere. He treats that as being the only question. The rights of other claimants are not noticed.

On such evidence as the above, the Government was prepared to assert a title to the block.

6. It may be asked, "What was the special need in this case of a public and judicial inquiry?" Had not nearly the whole of the Southern Island, and large tracts in the Northern, been acquired through the Land Purchase Department alone, and without recourse to any judicial tribunal?" Certainly. But the difference in the cases is this. In former years the officers of the Land Purchase Department were employed for their proper business—to buy land wherever the owners were willing to sell—to arrange the boundaries, payment, &c. They acted as administrative officers. If some of the owners were unwilling to sell, or if the title was in dispute, the payment stood over till the dispute was settled, and the Natives were agreed among themselves. Then the transaction was completed.

The Government, by standing aloof in this way, induced the Natives to come to a settlement. It was found that the interference of the Pakeha only aggravated the difficulty. The Government carefully avoided any appearance of being eager to obtain land. It also avoided the unsatisfactory course of employing its own agents, the Land Purchase Commissioners, to decide on objections to the purchases, which they had themselves negotiated. The Government could not lightly abandon its position as the impartial Protector of both races, in order to put itself in a position, where it must be regarded as the oppressor and enemy of some of its own people. Therefore the Government shrank from making itself a party to a land quarrel; and force was not employed against adverse claimants.

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At the Waitara, for the first time, a new plan was adopted. The Governor, in his capacity of land buyer, was now to use against subjects of the Crown the force which is at his disposal as Governor and Commander-in-Chief. If this new principle was to be adopted, a new practice also became necessary. Those subjects of the Queen, against whom force was to be used, had a right to the protection of the Queen's Courts before force was resorted to. It is not lawful for the Executive Government to use force in a purely civil question, without the authority of a competent judicial tribunal. In this case no such authority has been obtained: no such tribunal has been resorted to.

If there was no existing tribunal, the duty of the

Government was to establish one. It could not justly neglect to provide a proper tribunal, and then make its own neglect a reason for refusing to the subjects of the Crown, the protection they were entitled to. To acquire the Waitara land immediately, was not a necessity: to do justice to the Queen's subjects was a necessity.

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The matters in issue in this case, were of the same kind precisely as those which have been in issue before the various Courts of Land Claims Commissioners which have been from time to time constituted by the Legislature of this Colony. All these Courts have acted on one plan: they have travelled from spot to spot, giving fair opportunities to all parties concerned of bringing forward their claims, taking evidence on oath, exercising the same powers and protected by the same safeguards as ordinary Courts of Law. There never was any difficulty in obtaining the attendance of the leading Chiefs before those Courts. Why was not the same thing done in this case? If it be necessary, before a Crown Grant can issue to a Land Claimant, that is to say, before a subject receives the bounty of the Queen, why is it not necessary before a subject is ousted of that which belongs to him?

I know that this notion of resorting to a Court in the present case has been called unreasonable and even ludicrous. Yet to my mind no assumption appears more unreasonable or dangerous than that which is made by the Government on this point, namely, that the Government is excused from doing

its duty towards the subject, by a belief or surmise that the subject will not do his duty towards the Government. It is said that William King would not have obeyed the summons. Our surmise or opinion, for it could be nothing more, was no reason why he should not be summoned. If he had not come, we should have lost nothing; on the contrary, we should have gained much. Every indication on our part of a disposition to act fairly and openly would have enlisted on our side the natural sense of justice of a large portion of the Native people.

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On this point too, as on many others, it is overlooked that William King was one of many. Many there were on the spot claiming ownership: many others were at Waikanae and elsewhere. To shut out all these claimants from a fair trial, because William King was contumacious, would be to exalt the position of the Chief, as representing his Tribe, much higher than has ever yet been attempted; still more, if they were to be shut out from a fair trial, not because he was contumacious, but only because it was taken for granted that he would be so.

7. The principle here contended for is that which we inherit from our fathers. The least infringement of it would be denounced and resented in our own case. Why are we so indifferent, when our fellow-subjects are concerned? Let no man think that this is the pedantry of a lawyer, insisting on old maxims ill-suited to our circumstances. This principle comes to us from the wisest and ablest of our fa-

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thers. It is no theory of bookmen. On the contrary, it is the practical wisdom of the men who built up our English Commonwealth. Those men knew that justice was the life and health of every human society: that peace and growth could not be, where justice was not: they knew that there was no security for the power of the State being wielded justly, where that power was not wielded according to rules more clear, and methods more patent, than those of political expediency. They therefore forbade the Executive Government to use its power against any man, the meanest in the State, without due sanction of Law. By this principle, England has grown and thriven. Without this principle, New Zealand will not grow or thrive.

The Government, in protecting the Native owners, would have protected itself and the Colony. That which was the right of the Native in common with ourselves was also the interest of the English settler and of the Government itself. The possible consequences to the settlers generally, especially to the scattered out-settlers, were serious enough to entitle them to an inquiry which should exclude (as far as man can exclude) every possible doubt as to the soundness and justice of our proceedings, and should shew that it was absolutely necessary to take the course contemplated.

8. This then is the result. The points in dispute are many and difficult. No decision has yet been pronounced upon them by any competent or trustworthy tribunal. Mr. Parris' inquiry is wholly

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insufficient to shew that the adverse claims are not sound and well founded, both on behalf of the Tribe at large and of the individual claimants. The Colony is imperilled upon an issue, which has never been properly tried.

V. THE RESORT TO FORCE.

V. THE RESORT TO FORCE.

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1. On Wednesday, the 25th of January, 1860, a Meeting of the Executive Council was held at Auckland. The following is an extract from the Minutes of the Meeting: –

PRESENT.

His Excellency the Governor.
The Honourable the Officer commanding the Troops.
The Honourable the Colonial Secretary.
The Honourable the Attorney General.
The Honourable the Colonial Treasurer.
The Honourable Mr. Tancred.

"The Governor submits to the Council the question of the completion of the purchase from the Native Chief Te Teira of a certain block of land, situated in the Province of Taranaki, at the mouth of the Waitara, on its south and left bank; as a preliminary to which, a survey of the land is necessary.

"The Council, after a full consideration of the circumstances of the case, advise:

"1st. That Mr. Parris be instructed to have the said land surveyed in the ordinary manner, and to take care that the Native Chief, William King, be indirectly, but not officially, made aware of the day on which the survey will be commenced.

"2nd. Should William King or any other Native endeavour to prevent the survey, or in any way interfere with the prosecution of the work, in that case that the surveying party be protected during the whole performance of their work by an adequate Military force under the command of the Senior Military Officer; with which view power to call out the Taranaki Militia and Volunteers, and to proclaim Martial Law, be transmitted to the Commanding Officer at New Plymouth.

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"3rd. That when the survey shall have been completed, the Officer commanding at New Plymouth shall, until further instructed, keep possession, by force if necessary, of the said land, so as to prevent the occupation of, or any act of trespass upon, it, by any Natives.

"4th. That the Civil Authorities at New Plymouth be instructed to assist and co-operate, by every means in their power, with the Military Authorities in carrying out these instructions.

"And the Honourable Colonel Gold and the Honourable C. W. Richmond are to give the necessary directions accordingly." (Pap. E. p. 11.)

The Governor acted on this advice of the Executive Council. A Proclamation of Martial Law was accordingly signed by the Governor, and countersigned by the Colonial Secretary. It was in the following form: –

"WHEREAS Active Military Operations are about to be undertaken by the Queen's Forces against Natives in the Province of Taranaki, in arms against Her Majesty's Sovereign Authority, Now I, the Governor, do hereby PROCLAIM and DECLARE that MARTIAL LAW will be exercised throughout the said Province, from pub-

lication hereof within the Province of Taranaki until the relief of the said district from Martial Law by public Proclamation."

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The Colonial Secretary wrote on the same day to Lieut. Col. Murray, commanding' the detachment at New Plymouth, as follows: –

"I have the honour to forward herewith to you a Proclamation by His Excellency the Governor, proclaiming that Martial Law will be exercised throughout the Province of Taranaki from the date of the publication in that Province of the said Proclamation.

"I also transmit an Instrument appointing you to be the Governor's Deputy for the purpose of directing the Officer commanding the Militia in the District of Taranaki to draw out for actual service the Taranaki Militia, or such number thereof as you may judge necessary.

"It will be obvious to you that the Proclamation should only be published by you, and operative effect given to the other instrument, under such circumstances as in your opinion render it impossible to carry out the wishes of the Government without resorting to the powers conferred by these documents."² (Pap. E. No. 3. p. 12.)

2. In pursuance of instructions, an attempt was now made to survey the land. The proceeding is thus stated in the Taranaki News, Feb. 23rd, 1860: –

"On Monday, (20th Feb.) Mr. Parris, with Mr. Carrington, and Mr. W. Hursthouse, of the

Survey Department, and one of the armed police force, proceeded to Waitara. The party was met at various points of the road by parties of Natives, but no obstruction was offered to their progress.

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"Arrived at the land to be surveyed, a large number of natives, of men and women, were found assembled, and a party, apparently appointed for the purpose, attempted to obstruct unpacking the instruments without success; but when the chain was thrown out, and taken by Messrs. Parris and Carrington, they effectually prevented their making any use of it. The obstruction was managed in the least objectionable way possible; there was no noisy language, and no more violence was used than was necessary to prevent the extension of the chain; they laid hold of the middle of the chain, and so disturbed the measuring; and the surveying party, finding it vain to persist further, forthwith returned to town.

"Subsequently a communication from the authorities was made, giving the Waitara Chief twenty-four hours to apologise for the obstruction offered by his people, and to notify his relinquishment of his opposition to the survey. To this an answer was received, to the purport that he, Wiremu Kingi, did not desire war; that he loved the white people very much, but that he would keep the land, and that they (that is, he and the Government) might be very good friends, if the survey were relinquished."

On the 22nd day of February, 1860, the Proclamation of Martial Law, was published by Col. Murray. The Proclamation, though published on this day, bore date 25th January, 1860, that is, the day on which it was signed by the Governor at Auckland. It is to be observed, that the Proclamation extended over the whole of

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the Province of Taranaki, not only over the territory of the Ngati awa tribe, but also over the whole territory of the Tribes to the South of New Plymouth, that is to say, the Taranaki tribe, and the Ngati rua nui. The Proclamation was published both in the English and the Maori languages. The Governor then proceeded to Taranaki with additional troops, where he arrived on the 1st of March. He immediately despatched to William King a message requesting, that "to prevent misunderstanding, he would come into the town and learn the Governor's intentions" and offering a safe-conduct. {Pap. E. No. 3. p. 21.}

After a long conference with the Governor's messengers, William King said he would either come, or send his final decision to the Governor, the next day. Accordingly the next day he sent a letter, declining to come. {Pap. E. No. 8. p. 15.} The letter has not been printed amongst the papers laid before the Houses of Assembly.

3. Very much has been said lately about this refusal of William King to accept the Governor's safe-conduct. It becomes necessary therefore to consider it more particularly.

It is to be remarked in the first place that the proposed conference with the Governor could not be a substitute for that which William King and all the other claimants were entitled to, namely, an inquiry before a competent and independent tribunal. If even at that time the Governor had offered to leave the question to some fair arbitration, there might have been some show of reason; but no such thing was offered then or at any time. The Governor offered nothing. No re-opening of the subject was contemplated. He required submission, and he gave a final opportunity for making it. This appears from the language of the message itself, as well as from the other official documents. The Governor had written on the 27th February to His Grace the Duke of Newcastle: "I do not anticipate any real opposition when the Chief, William King, sees that I am determined not to permit him to defy Her Majesty's Government." (Pap. E. No. 3. p. 12.)

On the 25th of January, Mr. Richmond wrote thus to Mr. Parris: "You are to take care that the intended commencement of the survey is publicly known; and in particular, that Wiremu Kingi and his party are made fully aware of it, and of the firm determination of His Excellency to complete the purchase."

A year before the time at which we are now speaking, there had been no unwillingness on the part of William King and his people to confer with

the Governor. On the 29th March, 1859, the Governor reported to the Secretary of State, his recent visit to the Province of Taranaki. (Pap. E. No. 3. p. 3.) In that despatch, he says, "I had also an interview with the Chief, William King, and a large part of his tribe, who came to see me." The Governor took advantage of this opportunity to make the declaration cited above, in page 20.

If the lapse of twelve months had diminished the willingness of William King to visit the Governor, may we not discern some reason for it? The course taken by the Government in that interval, could hardly appear to him fair or reasonable. His claim on behalf of his tribe had been simply set aside, never investigated. The opposition of his tribesmen was disregarded; part of the money had been paid; the survey of the land had been begun, and was to be carried out by force. He was asked to go and "learn the Governor's intentions." Were not the Governor's intentions plain enough? By the proclamation of Martial Law, a week before, notice had been given that "Active Military operations were about to be undertaken by the Queen's Forces," and the Governor had now brought troops with him.

Even if he accepted it, how was he to go? The safe-conduct itself required him to appear "unarmed." (Pap. E. No. 3a. p. 4.) Yet, was he safe without arms? On a like occasion, formerly, William King had dreaded Te Rauparaha's fate,

(Dr. Thomson, vol. 2. p. 226.) whose capture has become a proverb among the Natives. But a far greater risk was apparent. Ihaia, his deadly enemy, was now amongst the allies of the Government. It was Ihaia that laid the plot, which issued in the murder of Katatore, William King's ally. Those persons who find in this conduct of William King a justification for resorting to force, appear to overlook the fact that the resort to force had been already determined on, and that that determination had been publicly notified.

I do not desire to travel further into the questions that have been raised about this matter. William King has been blamed for speaking roughly or insolently. Again, he has been blamed for not taking away from the Governor's feet the mat which Teira laid there. Had he taken it away, he would probably have been blamed still more. There has been a noting of tone and demeanour, complaints of abruptness and incivility, to a length, which appears to me unworthy and un-English. It is needless to attempt a nice measurement of such things. If our case be good in itself, we do not need the aid of such considerations: if otherwise, the want of right on our part cannot be supplied by foolishness or lack of temper on the other side.

Moreover, William King was not the only person interested. There were many adverse claimants who had nothing to do with the Governor's

message: some were not even on the ground. Was their land to be taken because William King was uncivil?

4. On the 5th March the troops were moved down to the Waitara, and occupied a position on the disputed block.

The Officer commanding the troops was instructed to confine the operations of the force at Waitara within the bounds of the block. It is stated in the Official document (Pap. E. No. 3. p. 23) that "on the 13th and 14th March, the sellers pointed out the boundaries of the block, which were duly surveyed and the lines cut; the sellers aiding in the work." It now appears that only the southern boundary of the block was then cut, and that the inland or eastern limit of the block is still undefined. The Government thus undertook to obtain possession of the disputed land by force) to awe the opponents into submission by a display of military force. We, the English subjects of the Queen, dislike nothing so much as being intimidated into the relinquishment of a right. Why should a Maori dislike it less? On the contrary, the pride and passion of the race, the patriotism of each clan, has always centred on this point. To fight for their land, to resist encroachment even to the death, this has been their point of honour. A Chief who should yield to intimidation in such a case would be degraded in the eyes of his people.

On the night of the 15th March, a pa was built

by some of William King's people, within the bounds of the block. The next day they pulled up the survey stakes and burnt them. On the 17th March, the conflict began.

5. Let us now review the relative position of the Government and the Natives. There had been a quiet and peaceable prohibition by them of an entrance on their land. So far they were right; but this involves no censure of the attempt made by the Government to survey the land. A sort of usage had existed from the beginning of our land purchasing, that the outside boundaries should be laid down before the money was paid. Latterly it had become customary to pay the first instalment before the survey. The survey then was not taken as an assertion that all parties had consented, but rather that all known claimants had consented. The survey itself would probably bring out those claimants who were as yet unknown. If they came forward, an endeavour was made to satisfy them. If the endeavour failed, the transaction stood over. The entrance on the land with this view, to lay out the outside boundary, was not to be blamed. But when the preliminary survey, or attempt

at a survey, had served its proper purpose, and brought out a large number of adverse claimants, it then became the duty of the Government to take one of two courses: either to stay its hand for a time, after the manner of former Governments, until the adverse claimants agreed to the sale; or, if it was thought wise and

necessary to proceed, notwithstanding the adverse claimants, in that case to disprove their claims and establish its own right before some competent tribunal. The Government was bound to do in this case, that which, in the case of one of ourselves being the adverse claimant, it must have done. The course of the Colonial Government was to be guided by one consideration only, namely, what was lawful and just. The one question to be asked was this: – Was it lawful for the Government, under the circumstances, to take possession of the land by armed force? There could be only one answer. It was not lawful.

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6. It is unnecessary to point out the practical difficulties in the way of the Native claimants, supposing they desired to protect themselves by legal means against this invasion of their land, or to consider the circumstances which disable men without knowledge of our language and our customs, and with little money, from applying to a remote Court. Nor is it necessary to inquire whether they could have proceeded effectually against officers who would have justified their acts under the authority of the Governor; the Governor himself not being liable to an action in the Colony for any act done in his public capacity: nor whether any proceedings at all could practically be carried on under Martial Law. But it is necessary to notice the view which has been lately taken of the jurisdiction of the Supreme Court of this Colony.

In December, 1859, the opinion of the Law officers of the Crown in England was obtained upon the question, whether the Aboriginal Natives of New Zealand are entitled to the Electoral Franchise under the Constitution Act. In their opinion the following passage occurs: "Could he (one Native) bring an action of Ejectment or Trespass in the Queen's Court in New Zealand? Does the Queen's Court ever exercise any jurisdiction over real property in a Native District? We presume, these questions must be answered in the negative." It appears then that the Law officers hold that the Colonial Courts have no cognizance of questions of Native title or occupancy in any case.

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If this view be correct, it follows that William King and his people had no legal and peaceable means of redress, through any tribunal capable of entertaining their suit. Nor was any mode of settling the question by arbitration ever proposed by the Government.

7. It is not meant by this that the Government had proceeded regularly and lawfully up to this point, and that now it became the duty of the opponents to appeal to the Law to protect them; and that therefore the first wrong was done on the part of the Natives in not seeking redress by Law. The first wrong was not on the part of the Natives; it was on the part of the Colonial Government. What is maintained is this: that it was not their business to appeal to the Law in the first instance, but

the business of the Government. The party, which sought to disturb the existing order of things, was the party which needed to justify itself by some legal warrant for so doing. It was bound to establish its right first in some legal way, due opportunity being afforded to the opponents of defending their counter claims. The Government had already put itself in the wrong by taking forcible possession without lawful authority.

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This is the point which was forgotten throughout, that the Governor, in his capacity of land buyer, is as much bound by law as other land buyers. The rights of William King and his people, in respect of that piece of land, were not altered by the fact of the Governor being the purchaser. They were the same as if Teira had sold to any private person. The Governor has no more right to seize land upon the decision of his own agent than any other land buyer would have. He has no right to take possession, except where a private buyer would have such right; no more right in the case where he is buying land from a Maori, than where he is buying land from a Pakeha. The Government, however, did not stay to obtain legal sanction for its act. It proceeded to take possession by an armed force, and, without any legal authority, to oust subjects of the Crown from their lands. As we have said, the Government had not protected the Native claimants as it was bound to do. It had not submitted their case to a proper inquiry. In failing to protect

them, the Government had failed to protect itself. As there was no legal decision upon the Native rights, so there was no legal warrant for the Government to take the land.

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8. It is not meant to be suggested here that William King and the other claimants knew or thought much of Constitutional rights or English Law. They had sufficient natural sense of fairness to know that they had not been treated fairly. The tribal claim, put forward by their Chief, had been simply disallowed by the Government, never investigated. There were claimants, even on the ground, who did not consent; yet possession of the land was taken without their consent. So far as there had been any investigation at all, it had been left to Mr. Parris; who, under the circumstances, could not be regarded by them as a fit person for that office. As was to be expected, William King and his people did not appeal to the Queen for protection against those who wielded her power. They met force by force.

9. What was the character and degree of their criminality in so doing? Their resistance was highly criminal, for blood was unlawfully shed, and that as the natural and foreseen consequence of that resistance. Does their offence amount, as is often assumed, to the very highest of all criminal offences – the offence of treason – to open rebellion against the sovereign authority of the Queen of England? To constitute such an offence, it is essential that

those who resort to unlawful force shall propose to themselves some unlawful object of a general nature.

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"All risings in order to effect innovations of a public and general concern by an armed force are, in construction of law, high treason within the clause [of the Statute of Treasons] of levying war. Insurrections likewise for redressing national grievances, or for the expulsion of foreigners in general, or indeed of any single nation living here under the protection of the king, or for the reformation of real or imaginary evils of a public nature, and in which the insurgents have no special interest – risings to effect these ends by force and numbers are by construction of law within the clause of levying war, for they are levelled at the King's Crown and Royal dignity." So says Mr. Justice Foster.

"Tumults," said Lord Ellenborough, in Watson's Case, "the object of which is the peculiar private and individual interest of the parties engaged in them, are distinguished, by the Statute of Treasons itself, from attacks upon the Regal authority of the Realm"

In Brandreth's case, Lord Tenterden thus stated the law: –

"Insurrections and risings for the purpose of effecting by force and numbers, however ill-arranged, provided or organised, any innovation of a public nature, or redress of supposed public grievances, in

which the parties had no special or particular interest or concern, have been deemed instances of the actual levying- of war."

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In Frost's case, the facts were these. Frost had combined with the other prisoners to lead from the hills, at the dead of night, to the town of Newport, some thousands of men; of whom many were armed with deadly weapons. These men arrived at the town by daylight, and after firing upon the civil authorities and

upon the Queen's troops, were defeated and dispersed. Chief Justice Tindal, in summing up the evidence, refrained from expressing any opinion of his own, whether or not the insurrection aimed at objects of a general or a particular nature. He introduced the following passage from Sir Matthew Hale's Pleas of the Crown: "If men levy war to break prisons to deliver one or more particular persons out of prison, wherein they are lawfully imprisoned (unless such as are imprisoned for treason,) this, upon the advice of the Judges upon a special verdict found at the Old Bailey, was ruled not to be high treason, but only a great riot; but if it were to break prisons or deliver persons generally out of prison, this is treason." In conclusion, he stated the exact question the Jury had to determine, namely, "whether it was Frost's object, by the terror which bodies of armed men would inspire, to seize and keep possession of the town of Newport, making this a beginning of an extensive rebellion; – which would be high treason: or whe-

ther he had no more in view than to effect, by the display of physical force, the amelioration of the condition of Vincent and his companions in Monmouth Gaol, if not their liberation; – which would be a dangerous misdemeanour only. The Jury were to look at the evidence with all possible candour and fairness, and see if the Crown had conclusively disproved this limited object and design." Page 87

It is plain that, where the persons who resort to armed force have for their object to assert and maintain their own rights in a particular piece of land, the offence, whatever it be, does not amount to Treason or Rebellion, according to the Law of England. These men being subjects of the Crown of England, the nature of their crimes and the penal consequences thereof must be measured by the Law of England. We are not at liberty to deal with these our own fellow-subjects, as if we were waging war against aliens.

10. What then, on the whole, is the position of the Colonial Government at this time as to the disputed block? The Government has taken possession of it without proper inquiry, and without lawful authority. It has been assumed, that no tribal right exists as to the land at the Waitara. If such right does exist, then we have no right to be on the land at all, not even on Teira's land. As to individual claims, the case is even worse. There are absentee claimants, whose claims are not to be arbitrarily

denied. For all we yet know, they may be sound and just. For all we know as yet, the pa, built within the block on the night of the 15th March, may have stood on ground belonging to the very persons who built it. Nor can we get rid of the difficulty in the manner proposed by Mr. Richmond. As to the claims of absentees, "they are entitled, if real, to compensation, and no more." (Speech in the House of Representatives, August 7th, 1860.) The doctrine thus laid down amounts to this, that a man's land may be taken, whether he agree or not, and without any law or lawful authority for taking it: that he may be compelled to surrender his land by a decree of the Native Department. So easily is it forgotten that these men are subjects of the Queen; and that, even within these few weeks, we have assured them again that they are entitled to the protection of the same laws with ourselves. Fortunately the Governor of the Colony has not forgotten what is due to subjects of the Crown of England. On the payment of the first instalment to Teira, 4th December, 1859, a declaration was read on behalf of the Governor, "That if any man could prove his claim to any piece of land within the boundary described, such claim would be respected, and the claimant might hold or sell, as he thought fit." But even this declaration does not wholly remove the difficulty. Where is a man to "prove his claim?" For there is no competent or lawful Court. Are the Natives Page 88

to keep or lose their lands according to the decision of a subordinate and dependent agent of the Executive Government? If this be so, what is the value of the Treaty of Waitangi? If this be so, how can they be called subjects of the Crown of England? Is the Government to be at liberty to take land indiscriminately, and then to require the dissentients to prove their claims? The Government should rather have ascertained from the sellers, what they had to sell. What can be less fitting than that the Government should proceed to take possession, without even knowing what it is entitled to possess? Page 89

11. The result is, that it is still quite uncertain whether the Government be in the right, as to the substance of its claim: whilst it is quite certain that the Government is in the wrong, as to the mode in which it has asserted its claim.

2 I do not here enter upon the questions which have been raised concerning this proclamation and the delegation to Colonel Murray. Those questions are of the gravest importance, and cannot be conveniently discussed in this place.

VI. THE CONSEQUENCES.

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It were an unworthy and inadequate mode of estimating the importance of the Taranaki question if we were to confine our view to the more immediate and palpable consequences of the proceedings at the Waitara; such as the present condition of the Province of Taranaki, the heavy burden entailed on the Colony and the like. These are weighty matters indeed, but our judgment of the Government policy is not to be determined by a consideration of these

nearer consequences only. Every policy must be estimated by reference to the whole object in view, the whole of the work which is proposed to be done.

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1. Here in New Zealand our nation has engaged in an enterprise most difficult, yet also most noble and worthy of England. We have undertaken to acquire these islands for the Crown and for our race, without violence and without fraud, and so that the Native people, instead of being destroyed, should be protected and civilized. We have covenanted with these people, and assured to them the full privileges of subjects of the Crown. To this undertaking the faith of the nation is pledged. By these means we secured a peaceable entrance for the Queen's authority into the country, and have in consequence gradually gained a firm hold upon it. The compact is binding irrevocably. We cannot repudiate it so long as we retain the benefit which we obtained by it.

It is the clear duty of every officer of the Crown, and of every loyal citizen, to do his utmost, by deed and word, to fulfil this national undertaking. Our individual opinions, about the policy or wisdom of the undertaking, have nothing to do with our duty in this matter. Our individual opinions, about the capacity or character of the Natives, have nothing to do with it. To sustain the pledged faith of our Queen and our nation, this is our duty. Much has been said lately about loyalty. Here is the test of it. The recent measures of the Government must

be judged of by this standard; they must be approved or condemned according to their tendency to accomplish or to defeat the national undertaking, to increase or to remove the intrinsic difficulties of the enterprise.

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2. What are these difficulties? The difficulties are doubtless many; but they resolve themselves ultimately into one, which is the source of all: that one is the lack of confidence on the part of the natives in our honesty and good intentions. They listen quietly to our words and approve them, but they watch and scrutinize our acts. This is the one original difficulty, ever re-appearing: capable of being lulled and quieted, capable of being overcome and removed entirely, but capable also of being aggravated to the ruin of all concerned.

Just before Samuel Marsden left the waters of New South Wales on his first voyage to New Zealand, this difficulty showed itself. The ship was ready to sail, and all persons were on board, when the Native Chiefs, who up to that time had strongly encouraged the enterprise, became on a sudden gloomy and reserved. Their suspicions had been awakened by a gentleman at Sydney, who told them that the Missionaries would be followed by many others of their countrymen, who would in time become so powerful as either to destroy the Natives or reduce them to slavery. In proof of this assertion, he bade them look at the conduct of our countrymen in New South Wales. Mr. Marsden met

this difficulty promptly. He offered to order the vessel to return to Sydney, there to land the Missionaries and their families, and to abandon the thought of holding any intercourse with New Zealand. This sufficed, and the good work proceeded. [Nicholas, Voyage to New Zealand, vol. 1. p. 41.] The same suspicion was expressed at Waitangi. Rewa, while addressing Captain Hobson, turned to the Chiefs and said, "Send the man away – do not sign the paper: if you do, you will be reduced to the condition of slaves, and be obliged to break stones for the roads. Your land will be taken from you, and your dignity as Chiefs will be destroyed." The same feeling prompted the Northern war under Heke. It has re-appeared from time to time in various forms. The letter which will be found in the Appendix shows how strongly these suspicions were entertained five years ago by the Tribes immediately to the Southward of New Plymouth.

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3. Hitherto, the endeavours which have been made to overcome these difficulties, have been attended by a remarkable degree of success. The Natives have voluntarily transferred to the Crown nearly all the Southern Island and very large tracts in the Northern. They have gradually abandoned old usages, adopted our dress and our modes of cultivating the ground. A very large portion of the corn and other produce raised in this Island has been grown by them. By co-operative labour, sustained for great lengths of time, they have raised

large sums of money; which have been expended in the building of mills, and in the purchase of small vessels for trading.

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Nor has the moral growth of the race been less apparent. They have readily given land for schools. In the central district of this Island, boarding schools for children, offshoots of the schools aided by the Government, have been established by the Natives themselves, and are now conducted and supported by them. One hundred and seventy children are at this time boarded in such schools. In every part of the country, efforts have been made by them to establish some mode of settling their disputes by law, and to frame and enforce regulations for repressing drunkenness and immorality, and for securing good order amongst themselves.

The success of this great undertaking, as to both its branches, has been such as no man in the Colony anticipated twenty years back.

4. It is a remarkable fact that the same period of time forms the turning point of the political history of both races. The earliest working of the system of Parliamentary Government amongst the Colonists, was concurrent with a wide spread movement amongst the Natives towards some regular system of law and organisation for themselves.

The preparation for this general movement had been long going on. In fact the Maories, even in their old heathen state, were not without law. Notwithstanding the crimes and outrages of that state

of things, the ceaseless wars of tribe against tribe, a strong authority was exercised within each tribe. On all occasions the life of the Maori man, in peace and even more in war, was fenced round with forms and ceremonies, with minute and rigid rules. War was not entered upon without extreme deliberation and caution. The movements of the warriors were controlled by the priest (tohunga). All the tribesmen consulted together on all matters affecting the tribe. The old system of government fell with the fall of heathenism. The authority of the Chief and of the heathen priest sank gradually, as the old belief and the heathen usages, which supported that authority, were undermined by the teaching of the Missionaries. For years the people experienced the mischiefs which flowed from the decline and the failure of the power which formerly restrained and governed their tribes. Yet the usage of public deliberation remained. Our new forms soon commended themselves to their old habits. One of the first words of civilization which they borrowed from us was "Committee," which, under the form of Komiti, is now received and current in all parts of the country. After the colonization of the country commenced, they watched carefully and habitually our public proceedings, and came gradually to the conviction that our obedience to law was one main source of our superiority to themselves. They were continually taught

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and exhorted by their teachers, and especially by the Government itself through the

Maori Messenger, to substitute arbitration and peaceful modes of settling disputes, for their old mode of appealing to force. Nor was practical aid wanting on the part of the Government. Native Assessors were appointed in all parts of the country: who were to act under the instruction and guidance of English Magistrates. But it was not easy to find a sufficient number of English Magistrates, or to provide those who were appointed with the means requisite for carrying out completely the plan of the Government. The Native Assessors were left to themselves. Accordingly they set themselves to supply the need in their own way. They strove to establish for themselves, a system, rudely resembling ours, and so to procure for themselves a benefit which our system did not confer, except in the immediate neighbourhood of our own settlements. The result has been, that at present, through most of the Native districts, a sort of lawless law is vigorously administered by Native Magistrates, supported or controlled by Native Councils or Runangas. Even this rude system, with all its defects and all its extravagances, has wrought much good. The Maories have been schooled, somewhat roughly, into obedience to law or authority. Nor has the practical benefit been confined to them. Native debtors in the Bay of Plenty and on the East coast were formerly beyond the reach of their English creditors. Within the last few years, debts have been recovered

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in those districts, through the agency of Native Magistrates, to a very considerable amount.

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5. The movement of which we have spoken was general. About the year 1856, a peculiar movement began to manifest itself in the Waikato District. The men of the Waikato aspired to a higher degree of organisation. They sought not only to administer justice amongst themselves, but also to establish for themselves a central legislature and government. No doubt the first promoters of this movement were stimulated by the example of the numerous Councils, which they saw established amongst the English under the new Constitution. But the foundation of the whole was a sense which had gradually gathered strength, that they needed some government and that the Pakeha could not or would not supply it. Accordingly a scheme which had been proposed several years before, was now carried out. They proceeded to elect for themselves a King. The strength of this movement lay, and still lies, in the Waikato district. Until lately it scarcely extended beyond. The authors of this movement "expressed no disaffection towards the Government, but urged the necessity of maintaining peace, order, and good government in the country: which they argued the Governor was unable to do. 'I want order and laws,' Thompson said; 'a King could give these better than the Governor. The Governor never does anything, except when a Pakeha

is killed. We are allowed to fight and kill each other as we please. A King would end these evils.'

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"Paora said, 'God is good: Israel was his people. They had a King. I see no reason why, any nation should not have a king if it likes. The Gospel does not say, We are not to have a king. It says, 'Honour the king, love the brotherhood.' Why should the Queen be angry? We shall be in alliance with her, and friendship will be preserved. The Governor does not stop murders and fights among us. A king will be able to do that. Let us have order, so that we may grow as the Pakeha grows. Why should we disappear from the country? New Zealand is ours, I love it'" (Buddle. King Movement, p. 9.)

This King party includes men of every shade of opinion and feeling; very many who honestly desire order and law, under the guidance and protection of the Pakeha; others, who are deliberately organising and preparing themselves for the purpose of resisting that aggression which they anticipate from us. Some reckless and violent men have joined it; but they have effectually been kept in check, until lately, by the large majority of well-disposed men. An instance, very characteristic in all ways of the Native people, occurred at Taupo, in December, 1856.

"At one of the evening meetings which was held in a large house lighted up for the occasion, one of the advocates for a general clearing out [of all the

Pakehas, Governor, Missionaries, and Settlers] was very eloquently pressing his views upon his audience, when Tara hawaiki, of Nga rua wahia, walked quietly round, and one after the other put out the lights, till the place was in total darkness, and the speaker in possession of the house was brought to a full stop. 'Don't you think you had better light up the candles again?' he said. 'Most certainly,' replied Tara hawaiki; 'it was very foolish to extinguish them!' The meeting at once apprehended the meaning of this symbolical act, and the orator sat down amid roars of laughter enjoyed at his expense." (Buddle, p. 8.)

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6. This King movement has a further object, namely, to prevent the land within the district from being alienated to Europeans, without the consent of the King. This restriction of land sales is no doubt intended partly as a means of sustaining their own nationality against the Pakeha, and of securing a fair field for the operation of their new system. But it has been greatly strengthened, if not originally prompted, by their observation of the effects of the Government system of land purchasing. They perceive that as the territory of the tribe is gradually narrowed, the position of the chief is lowered, and that little or no permanent benefit accrues to the tribe, to compensate them for the permanent loss of their land. They are irritated and annoyed in a variety of ways by the working of the system, and endeavour in this way to protect themselves

against it. The unpopularity of our system of land purchasing has been the strength of this land league.

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"When any dispute arose, a party of king's men were sent to tender their kind offices as mediators; and having effected a reconciliation between the contending parties, they generally wound up their mission by proposing a union with their league. They said: 'Disputes will never end under the present system of holding our land, nor can there be any security against clandestine sales (hoko tahae), until all the land is placed under the control of one runanga. We never have been able to manage these things, and never shall be on the old system, therefore join us and hand over your land to the league: then the cause of your quarrels will be removed, your land will be secured for your children, and peace will reign among the tribes.' This view of the subject took with many parties, and drew many into the scheme." (Buddle, p. 27.)

Accordingly leagues of this kind have not been confined to the Waikato district, but have been formed in all parts of the country. The earliest of these leagues was formed in 1854, at Manawa pou, between the two tribes immediately to the South of New Plymouth.³ They endeavoured to obtain the

co-operation of other tribes to the south of them; but failed to do so.

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7. What was the position of the Ngati awa tribe and of the Chief William King, in respect of these movements, particularly in respect of the Waikato king movement and the Taranaki land league? There has been some degree of variation in the allegations, which have been made on the part of the Government as to this matter. The first suggestion, that William King was directly connected with the Waikato king party, was soon abandoned. It was next asserted that, though not actually a member of that party and league, yet he favoured them and

counted upon their support. The fact is that William King strenuously resisted the king movement, even until force was actually employed against him at the Waitara. This we learn from Mr. Parris himself.

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"In December last, Waitere, from Hangatiki, an active agent in the King movement, called at Waitara on his way to the South, and left secretly a King's flag with a native called Erueti, the miscreant that proposed the plot to murder me; who has done a great deal of mischief in this district. As soon as William King found out that this flag had been left there, he accused those who sanctioned it of acting treacherously by him; and finding some of his own people favourable to it, he threatened to leave the district. This matter caused a division among the party. William King left his pa at Waitara, and went to live with Teito, near the Waiongona. while the other party still carried on the flag question, and commenced to prepare a flagstaff." (Further Pap. E. No. 3a. p. 3.)

We have already seen (above, p. 57.) how Wi Tako, the emissary of the king party, certified to his friends in April last, that the quarrel at the Waitara had no connection with the king question. His words are, "Friends, do you listen. The ground of this trouble concerns the land only. It does not concern the king."

Again, it has been repeatedly asserted that William King was a leading member of the Ta-

ranaki land league. No proof has yet been given of this assertion. William King is really connected with a land league, but one quite distinct from the Taranaki league to the South of New Plymouth. As to the fact of his connection with a land league, and as to the nature of the league itself, all our knowledge is derived from a letter written by himself to the Governor, 11th Feb., 1859. (Pap. E. No. 3A. p. 5.)

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The letter shows that a league or compact exists between the owners of the district, extending from Waitaha, about 4 miles south of the Waitara river, to the Mokau river, and that a Council is elected yearly by them. William King informs the Governor that the new Council elected for the year 1859, had decided that the old prohibition of the sale of land within that district should still continue (kia purutia ano te whenua). We have no sufficient means for determining the precise nature of this compact.

Nor is it necessary to inquire; for there is no doubt that the Waitara land lies entirely within the territory of the Ngati awa themselves, William King's own Tribe. We have seen "that the opposition of Wiremu Kingi to the sale of Teira's land, has been uniformly based by him on his pretensions as Chief to control the sale of all lands belonging to his tribe." Such is the statement of the Provincial Government and the settlers of Taranaki, cited above (p. 26.) Mr Richmond has also stated in the Memorandum cited above (p. 63.) that. "King's

stand is really taken upon his position as a Chief;" and that possibly under other circumstances, "his birth might have given him the command over the tribe which he pretends to exercise." This last statement bears date 27th April, 1860, nearly two months after the commencement of military operations at the Waitara. It is plain then that those operations were commenced in the belief and on the ground that William King was claiming as Chief of a Tribe, and not in any other capacity.

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It should be remembered, that the resistance of the Ngati awa to the sale of the Waitara land was no new thing. Before William King returned to the Waitara, the Ngati awa steadily refused to part with the land. (See above, p. 19.) That unwillingness began before any land league was thought of, and has continued unvaried and uninterrupted to the present time. Why do we seek a new cause for an old and unchanged fact?

The proceedings at the Waitara were not resorted to on the ground that William King was disloyal, or his people disaffected or engaged in resistance to the law; but simply because it was desirable to open the Waitara land. The purpose was good and laudable in itself, but it had no connection with the Queen's Sovereignty. The real object of the Governor is distinctly stated by himself in the Despatch of 29th March, 1859: -

"Since then, progress has been made in ascertaining Teira's right to dispose of the land (of which there seems to be little doubt); and if proved, the purchase will be

completed. Should this be the case, it will probably lead to the acquisition of all the land South of the Waitara river; which is essentially necessary for the consolidation of the Province, as well as for the use of the settlers. It is also most important to vindicate our right to purchase from those who have both the right and the desire to sell.

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"If the land now under negotiation can be obtained legitimately, and without breach of Maori ideas of right, I have little doubt that other tracts of land of considerable extent will be offered for sale; and I shall thus be able to satisfy the demands of all moderate men among the settlers." {Pap. E. No. 3. p. 3}.

That there is now a connection between "William King" and the Waikato party is not to be denied: but that connection began after our employment of military force, and in consequence of that employment. It is the result of our own acts. We have driven him into an alliance which he did not seek or desire.

8. The movements of which we have been speaking furnished a noble opening for the establishment of law and government throughout the Native population. No doubt much care was required in dealing with them, so as quietly to obviate and remove that distrust of the Government, out of which they sprang. These movements were dangerous, because they tended towards a separation of the races. Yet even that tendency to separation had its favourable side. A complete fusion of the two races into one legislative and judicial system was impracticable. By the institution of a separate system

for the Maories, the risk of collision in political matters with the settlers was avoided; whilst the Government had it in their power, by wise management to obtain the control and guidance of the whole movement. Before this period there had been no mode of governing the Natives, except by means of personal influence applied to individual cases. They had now become in a great degree receptive of laws and of institutions. Not that personal influence was now needed less than before; it was needed even more: but it was now required for a larger and more beneficial purpose, to restrain and guide the new movement, to mould its results into some permanent form for the good of both races. Personal influence was still indispensable, in order to effect in a peaceable way the transition to something more fixed and enduring than itself. The nature of the movement, as it showed itself in the Waikato district, and the main principles to be adopted in dealing with it, were clearly stated by Mr. Fenton, Resident Magistrate, in a Report dated March, 1857.

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"It being admitted that the Maories are theoretically entitled, but are actually not qualified, to exercise these privileges, the inference follows that for the present they should be induced to forego the exercise of them; and that in the mean time they should be suffered to exercise political privileges of a more primary character; that is, that they should be encouraged to undertake the institution of law in their own villages, assisted to making such bye-laws

as their peculiar wants require, allowed to nominate men to carry these laws into execution, and permitted to assemble periodically for the purpose of discussing the actions of the past and providing for the needs of the future. Thus will a continued progress be made in their political education; their thoughts will be occupied, their minds elevated, and their ambition satisfied." (Pap. E. No. 1c. p. 7.)

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"There exists a void, and this void, the persons principally interested are most anxious to fill. The English power, having failed to induce the adoption of law in a direct manner, through the means of English Magistrates, is now offered the opportunity of thoroughly instituting all the ordinary laws, as far as they can be made applicable, by

the simple and constitutional plan of initiating them through the intervention of the people themselves. For in fact the movement will, if properly guided, result in nothing more than the permanent establishment of a powerful machine, the motive power and the direction of which will remain with the Government.. When the Maories express their anxiety to make laws, they also pray that the Governor will cause them to be instructed as to what laws they are to make. In fact, their views, divested of maoriisms of thought and expression, are simply that the law of England may be introduced amongst them, with such modifications as their circumstances require." (Ib. p. 8.)

Shortly afterwards the Governor visited the Waikato district, and conferred with many of the Chiefs

on the subject. On his return to Auckland, the Governor laid before his Ministers a Memorandum stating the course which he thought proper to be taken. On the 6th of May, 1857, the Ministers presented to the Governor a Memorandum in answer thereto, indicating their views; which coincided generally with those taken by His Excellency. The following are extracts from their Memorandum.

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"That an important crisis in the relations of the Native race with the British Government is now occurring, is a fact recognized by all who have any acquaintance with Native affairs.

"The peculiar feature of the time is the tendency to self-organization, now being exhibited by a large section of the Maori people. The numerous meetings in course of being held throughout the country, the recent attempts at legislation which have taken place at the villages of the Waikato tribes, and the agitation for the appointment of a Native King, are the signs of this movement.

"With some amongst the Natives there is reason to think that social organization is sought chiefly, if not wholly, as a means to the ulterior end of counteracting the growing predominance of the European, preventing the further alienation of territory, and maintaining the national independence. Another class appears purely to desire the establishment of law and order, and to be at the same time sensible that this benefit is only to be attained by the co-operation of the British Government. Between these extremes there are probably many shades of opinion.

"There is, however, little reason to doubt that, should the British Government wisely and timely afford its countenance to the establishment amongst the Maories of civil

institutions suited to their wants, the more loyal and intelligent opinion will speedily become prevalent.

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"As to the ultimate end to which the British Government in these Islands is bound to shape its Native policy, there can be no difference of opinion. Successive Governors have promised, in the name of the British Crown, that the Colonists and the Maories should form but one people, under one equal law; and no efforts must be spared to redeem this pledge."

"But it is not reasonable to expect that a barbarous race should be able to adopt per saltum the complex institutions of a free British Colony. A transition state must occur, requiring special treatment; and the civilization, which is expected to lead to the adoption of British Law, can itself only be attained through the medium of fitting institutions; institutions which, taking the actual condition of the Aboriginal population as the point of departure, provide for its present necessities and for its transition state, and are capable of expanding, in their ultimate development, into the full measure of British liberty. Nor should the letter of promises made to the Natives be pleaded in bar of measures conceived in the spirit of those promises, and directed towards their practical fulfilment. Actual progress towards a real identity of laws is essentially more just, as well as more expedient, than the maintenance of the fiction of an identity, which it is notorious does not exist.

"In the preceding observations there is no intention to reflect upon the past conduct of Native affairs, as a whole. A certain amount of trust has been inspired in the friendliness and the fidelity of the British Government, which alone is much. The Natives would have been apt to look with suspicion on measures, which they had not themselves suggested. It is a new and remarkable feature of the present time, that the wish for better government has originated

with the Natives: they are tiring of anarchy. No such opportunity for an advance, as now seems to be opened, has been presented to any former administration.

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"There is great reason to believe that the Maories are fully capable of institutions of the character above described; of institutions, that is, containing the germs of British freedom. They are, to an extent surprising in an uncivilized people, habitually influenced by reason rather than by passion; are naturally venerationers of law, and uneasy when contravening recognised obligations; are without the spirit of caste, there being no sharp line of demarcation between Chiefs and people; and have at all times been used to the free discussion of their affairs in public assemblies of the Tribes. To these essential qualities are joined an enterprising spirit, a strong passion for gain, and a growing taste for European comforts and luxuries. Such a people, impossible to govern by any external force, promises to become readily amenable to laws enacted with their own consent.

"The foregoing considerations induce us to recommend it as expedient, that measures should be taken as early as possible for giving the support of the Crown, and the sanction of law, to the efforts now making by the Maori people towards the establishment of law and order amongst themselves. In dealing with a question so difficult and delicate, we are, however, fully sensible of the necessity of proceeding with the utmost caution, and desire to see the measures of Government moulded, as far as possible, by actual progressive experience of the wishes and wants of the Native people; and it fortunately happens that their habit of public discussion will greatly facilitate such a policy." (Memorandum of Ministers to Governor Gore Browne. Pap. E. No. 5. pp. 8-9.)

9. We now proceed to inquire what was practically done towards guiding and controlling this movement in the interval between 1857 and 1860. During the year 1857, and part of the year 1858, Mr. Fenton acted as Resident Magistrate in the Waikato district. In that capacity he gave much aid and guidance to the people. A large portion of the population of the Lower Waikato accepted the plans which he propounded. The general sentiment of the people was aptly expressed by Karaka Tomo, the old Chief of Ngatipo, who said: –

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"What is the meaning of the ark, that God said, let Noah make. The white men are cautious and knowing, the offspring of the youngest son of Noah. Noah was saved when all the world was drowned, because he had an ark. The white men will be saved, even if the Maories drown, because they have an ark. The law and order is their ark. Therefore let us turn to the white man, and get into his ark, that we may be saved, – the law, the council, the magistrate. On this day we begin." (Pap. E. No. 1c. p. 38.)

No similar effort has been made in any other part of the Island. Early in 1858 a book was put forth by the direction of the Governor, entitled "The Laws of England, compiled and translated into the Maori Language;" and the book was widely circulated amongst the Natives. This book, no doubt, had a considerable effect in stimulating the movement; but it failed to indicate to the Maories the course which

it was necessary for them to pursue. Some main principles of English Law were clearly explained, but too much of the artificial structure and technical language of our Law was retained. Taken as a whole, the book was far too multifarious and complicated. Much of it was occupied with matters which must always be confined to the English Courts. There was little or nothing adapted to the very peculiar needs and difficulties of the Maories at the time. In the Session of 1858, several laws were passed relative to Native affairs: the "Native District Regulation Act" empowered the Governor, in Council, to make and put in force, within Native districts, Regulations respecting divers matters enumerated in the Act. It provided that all such Regulations should be made, as far as possible, with the

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general assent of the Native population affected thereby; leaving it to the Governor to ascertain the fact of that assent in such manner as he might deem fitting. The "Native Circuit Courts Act" provided that within every Native district a Resident Magistrate, assisted by at least one Native Assessor, should hold a Court periodically. Such Courts were to exercise both civil and criminal jurisdiction, as limited and defined by the Act. Also all offences against any Regulation made under the former Act were to be cognizable by these Courts. The latter Act has been brought into operation at the Bay of Islands, and in the district to the West and North of the Bay, but not elsewhere. Under the former nothing has been done.

During the whole interval then of which we are now speaking very little was done anywhere by the Government to guide the Native mind towards law and order. Various causes conspired to produce this result. The consolidation of our new constitutional system gave abundant employment to our public men. The unfortunate arrangement, under which the offices of Native Secretary and of Chief Land Purchase Commissioner were combined in the same person, issued in the services of that officer being employed chiefly in the latter capacity. The Natives complained of the lack of help and guidance from the Native Department, the head of that Department being otherwise employed. Personal influence was gradually diminishing, whilst the internal activity and excitement of the people went on increasing. Some important and well-considered plans for the future management of Native affairs were framed by the Governor, and sent home; but in the meanwhile, from one cause or another, but especially from the absorption of the Native Secretary into the Land Purchase Department, the government of the Natives was gradually slipping out of our hands. In the district where guidance was most needed, that of the Waikato river, one practical and visible proof has remained of the interest taken by the Government in the advancement of the Native population: I mean the yearly aid given by the Government to the schools conducted by the Missionaries. That has tended strongly to pro-

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duce confidence, where so many influences have been tending the other way.

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Whilst the proper functions of the Colonial Government have been slightly or not at all exercised, one accidental function has been ever active; and that a function naturally tending to produce disputes and jealousies amongst the Natives themselves, and irritation against the Government. Acting Governor Shortland truly represented to Lord Stanley, in 1843, that "the Government, by becoming a purchaser of land, is placed in a position which tends to weaken its influence and lower its dignity in the eyes of the Natives generally: and the high situation of Her Majesty's Representative is classed in their minds with that of any other buyer of land; a most disadvantageous association, but one nevertheless which actually exists, as can be gathered from the remarks they frequently make on the subject." (Report. New Zealand, 1844, App. 340.) During the interval of which we are speaking, there was little to countervail this disadvantage. In many parts of the country, there was no indication of the Queen's Sovereignty; the Natives scarcely knew the Government, except as a purchaser of Land.

10. Over and above these more obvious causes of distrust, fresh causes have arisen of late years, smaller in themselves yet scarcely less powerful. Immigrants arriving in great numbers have been led to believe that the only source of difficulty in this Colony, the only barrier between them and wealth,

is the Native population. Hence has arisen in a section of our town populations a very unfriendly feeling towards the Natives. If the language, which has been occasionally used, were translated and generally circulated amongst the Natives, any cordiality, or even friendliness, on their part would be scarcely possible. They have more reason to fear us, than we to fear them. They mingle with us on every side, and are very quick to discern the signs of such feeling. Rumours of our evil intentions are carried from village to village throughout the country. Thus a chronic disquiet and suspicion have been widely spread.

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Can we wonder, if the Natives, finding that our system has conferred on them so little good, and threatens them with so much evil, have taken it into their serious consideration, whether they cannot do better for themselves than we have done for them? Can we wonder that, under all these circumstances, the King movement and other forms of jealous and unfriendly combination have arisen and gained strength?

11. Moreover, it has unfortunately happened that the inability of the Government to discharge its own proper function and duty, the protection of life and property by the enforcement of law, has been most conspicuous in the very district where the present disturbances have taken place. The difficulties besetting the Government have been no doubt exceedingly great. What is here said is not stated with

any intent of blaming the Colonial Government or any member of it. The only object is to show, that the Natives, could not, under the circumstances, acquire any clear or true apprehension of the nature and benefits of the Queen's Sovereignty, or any confidence in the Colonial Government as a protecting power. The long* series of atrocities, committed of late years in the New Plymouth district, commenced with the murder of Rawiri Waiaua, in August, 1854. The circumstances of that murder are stated in the following* Report to the Government from the then Native Secretary, Col. Nugent: –

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"From inquiry, I found that the first affray, in which Rawiri, the Native Assessor, one of the most respected Natives of the Puketapu tribe, and six others [were killed] by Katatore, partly arose from Rawiri attempting to cut the boundary of a piece of land which he had offered for sale to Mr. G. Cooper, the Land Commissioner of the Taranaki district. It appears that Katatore had long ago stated his intention of retaining this land, and had threatened to oppose any one who should offer to sell it; Rawiri, however, on account of some quarrel with Katatore, proposed selling the land, and was desired by Mr. Cooper to cut the boundary.

"Rawiri proceeded accordingly with twenty-two others, on the morning of the 3rd of August last, and had succeeded in cutting some part of the boundary line, when Katatore and party rushed down from his pah, and, after warning Rawiri twice without effect to desist, fired and killed him and six others; four were severely wounded and four slightly wounded.".....

"I fear that further bloodshed may be expected: and

as unfortunately it has arisen about a land question, Katatore will have all the sympathy of those who are opposed to the sale of land. The relations and friends of the deceased Chief Rawiri, who are principally resident within the settlement, and who are called the friendly Natives, as being in favour of the sale of land, are determined to have revenge for the death of their people."

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At the end of more than three years, the murder of Rawiri was avenged by Ihaia in the manner stated in the following letter from Mr. Halse, Assistant Native Secretary, to the Native Secretary, dated January 11th, 1858: –

"I have to report to you that Katatore was killed last Saturday under very atrocious circumstances. On his return from town towards sundown with three Natives, named in the margin, all on horseback, he was waylaid by Tamati Tiraurau and a party of five Natives, on one of the main roads of the Bell district, and shot. His relative Rawiri Karira, fell at the first volley, and was literally hacked to pieces.

"Tamihana pushed on; but Katatore dismounted, and whilst leading his horse away up the cross road towards the Huira, was overtaken and pierced with several bullets, then beaten about the head with the discharged guns (three of which were broken over him), and finally mangled with tomahawks.....

"The plans laid for Katatore's death were Ihaia's, as he has admitted to Mr. Parris; but they were so well kept by the Natives concerned, that nothing was known of there until they were effected. Even Katatore, who received warning on the road from Mr. Hollis, who had observe armed Natives remaining in one spot, had no thought of being attacked. Ihaia was observed watching him about

town during the day under an assumed desire for a reconciliation, and he followed him out of town. I am of opinion that the attack must have been meditated for some time, as on the first occasion of his moving out unarmed he has been killed. It may be attributed partly to revenge for Rawiri Waiaua's death, and jealousy that Katatore, after all their efforts to punish him for it, should be in a position to offer land for sale when Ihaia's offer was rejected." (Pap. E. No.2. p. 27.)

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Nor did these atrocious crimes stand alone. From the time of the murder of Rawiri Waiaua in August, 1854, a series of deadly feuds went on, till July, 1859: and it was not till September, 1859, that peace was finally concluded. It is unnecessary to enter into the details of these feuds: many of which are to be found in the "Petition of the Provincial Council of New Plymouth, to the House of Representatives, May 19th, 1858." (Pap. E. No.2. p.29.)

The effect of these continued troubles upon the Native interests was most disastrous. The Ngati awa Tribe had been one of the most industrious and thriving in New Zealand. "In 1854, William King's tribe possessed 150 horses, 300 head of cattle, 40 carts, 35 ploughs, 20 pairs of harrows, 3 winnowing machines, and 10 wooden houses." (Dr. Thomson. New Zealand, vol.2. p.224.) I learn from a friend, who visited the district in 1858, that most of these indications of prosperity had then passed away. To one who had seen the former state of things, the contrast was most striking and

painful. Fragments of threshing machines were seen lying among the ashes of a burnt pa; oxen lying dead between the hostile encampments; cultivations abandoned and fences broken down. The Native population was divided against itself, and embittered by long continued hostility.

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There was no place in New Zealand into which it was more evidently inexpedient to introduce any new element of discord.

12. Such was the state of the Native mind generally, and at New Plymouth in particular, when Teira's offer was accepted by the Government. The principle asserted by the Government was most obnoxious to the Natives, and necessarily secured to William King, active support in his own Tribe, and a strong and wide-spread sympathy beyond it. Nor did the mode of investigation pursued by Mr. Parris contrast favourably with the mode of proceeding in like cases formerly, as described by Mr. Hursthouse:

"The Government officers were scrupulous in obtaining the consent of every individual interested; title-deeds in the Maori tongue, showing boundaries and reserves, were duly signed by men, women, and even children; and the whole business conducted with the greatest fairness and publicity, was concluded to the satisfaction of both Native and European." (p.48.) In all these important points, as has been already shown, Mr. Parris' inquiry was defective. Everything tended to strengthen the notion,

already generally entertained amongst the Natives, that the Government cared for nothing so much as to get land. Can we be surprised, that the old feeling of distrust acquired at once a new strength, and spread rapidly through the widely scattered settlements of the Ngati awa tribe? Nor could it be confined even to that Tribe. The sense of a common interest, a common peril, carried it onward through the country; and when at last force was resorted to, the feeling of alarm and irritation reached its height. A number of persons saw that which they could not doubt to be their own land, taken from them by force. That which the best disposed amongst the Natives had refused to believe possible, that which the worst disposed had foretold and made a subject of agitation, had now taken place. Was it possible that such a state of things should exist without producing the worst effect on the minds of such a people as this? The inevitable result of the course pursued in this matter was, to weaken indefinitely every influence for good which was at work amongst the Natives, and to strengthen indefinitely every influence for evil. An immense impetus in the wrong direction was given to the schemes of Maori agitators, an impetus which they could not have acquired in any other way. We professed to be guarding against designing persons, yet we took (and are continuing to take) the course best suited for their purposes. There is reason to believe that the King movement has gained more strength, more adherents, since the beginning

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of this year, than in the whole previous period. That whole movement took its origin from our non-government. It has derived its strength from our mis-government.

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13. The peculiarity of the present irritation is that it is not, as former ones have been, strongest amongst the restless and more exciteable part of the population. The deepest sense of wrong is not in the men who are the most quick to denounce and to resent it, but rather in men of a more considerate nature, men who can estimate the largeness of the peril and calculate the consequences both ways. Many such men are to be found amongst the Native population. These men desire peace and union; they heartily seek our aid in reclaiming and raising their people, and welcome every proof of our good disposition towards them; they know the blessings of peace, and they know what Maori warfare may become; they have seen horrors which we can hardly conceive. These men chafe under the sense of what they believe to be a great wrong. They are bitterly disappointed. They ask why a Government, which has been constantly urging them to settle their own disputes by peaceable means, should itself resort at once to armed force? Why such force is employed, not to punish crime, but to seize land? They ask, Why is William King, our old ally, now treated as an enemy? Why does the Pakeha denounce without measure the slaughter of the five men at Omata, committed after hostilities had commenced, whilst

Ihaia, the contriver of a most foul and treacherous murder, is received by us as a friend and ally? Such men unwillingly accept the answers which are too readily suggested: – William King will not part with the Waitara; Ihaia is willing to sell land.

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Of all the evil consequences of the doings at the Waitara, the most formidable is this, – the estrangement of the most thoughtful of the Native people, the destruction or grievous diminution of their confidence in the Government.

14. The actual degree of irritation and distrust is serious enough. It needs not to be magnified. All exaggerations on this subject tend to a great practical evil. They encourage a most unfounded belief that the time for rational and peaceable measures is past, and that nothing remains for the two races but a deadly struggle for the mastery. I see with great regret that a statement of this kind has found its way into one of the Governor's Despatches, 27th April, 1860: – "There is a party on the Waikato who are decidedly inimical to the Europeans as a race, and desire war with or without cause. I am, however, inclined to believe that they are in a minority, and will be restrained by those who are wiser." (Pap. E. No.3. p.38.)

On what testimony the Governor accepted this view of the case, I know not; but I am satisfied that the facts were not correctly represented to him. I have witnessed the astonishment of persons intimately acquainted with the district, on reading that

statement. There is no antipathy of race amongst the Maories. The Polynesian man, from our first contact with him, has always shown himself disposed to

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look up to the Pakeha. He does not, like some wild races, sit apart in sullen indifference. He imitates us and adopts our ways. In everything but fighting, he regards the Pakeha as his superior. He is not unwilling to believe in our honesty, and in our desire to do him good. He will believe it still, if we do not so govern the country as to make that belief impossible. He offers friendship, he asks for guidance; but he insists on his rights, and he refuses to yield to intimidation. This has been his character from the beginning of our dealings with him, and such it is still.

That war is not desired with or without cause, is shown by the facts of the case itself. During seven months from the time when the present disturbances began, not more than 200 men of Waikato joined William King. It is reasonable to expect that if the present state of things continues, many more will be drawn in. During a considerable part of this time most of the English Settlements have been at the mercy of the Natives, but no attack or hostile movement has taken place.

A recent and imperfect Christianity and a commencing civilization have been suddenly assailed by that very power which is the professed protector of both. With few exceptions, these half-reclaimed men control themselves and remain quiet. This

remarkable result is due, partly perhaps to their belief that they will be able to protect themselves if the danger should actually reach them, but in a great measure to the fact that the leaders of the Maories are not what they are often supposed to be. They have been without books, but not without education. The feuds and alliances between the tribes furnished a practical training. The Chiefs of those turbulent and conflicting communities necessarily became wary and circumspect and apt to calculate consequences. These men understand their present position. They know that they cannot stand against foreign invaders without the protection of the Queen. They desire trade and peace. They do not desire a war by which they can gain nothing, and may lose much. Lastly, they have learned to distinguish between the Government of the Colony and the Government of England. They look to the Queen for protection and justice.

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I know it has been asserted that a large portion of the Native population is hostile to the Queen's sovereignty. I am persuaded that such is not the case. My firm belief is that, if what is called disaffection were carefully sifted and examined, it would be found almost universally to be at bottom directed against particular persons or particular grievances, not really against the authority of the Crown. If indeed any considerable portion of a people so ready and willing in former times to invite our presence and accept our guidance, and so able to estimate

the advantages and disadvantages of the connection, had now become determined to cast off our Government, that fact would be the heaviest condemnation of our rule. But we may safely and thankfully reject such assertions.

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15. A month after the last-mentioned Despatch was written, the following statement as to the disposition of the men of Waikato was published by a gentleman, who has been depended on by the Government, throughout these proceedings, as one of their best and safest authorities: –

"That some of the ultra-kingites may have contemplated extreme measures against the Pakehas is not improbable; various things have transpired in the progress of events calculated to lead to this conclusion; but this party is very small. Its ultra measures meet with no support from the great body of the Waikato tribes. The speeches of the principal Chiefs may be referred to in proof of this. Nor can there be any doubt about the sincerity of those speeches. The Waikatos, as a body, are evidently anxious to be in a position to defend themselves against aggression, but they are not disposed to become the aggressors nor to involve themselves in a general war." (Buddle, p.26.)

16. After the present disturbances had continued for some months, an effort was made to allay the irritation of the Native mind. A number of Native Chiefs were invited by the Governor to confer with him. Accordingly about 120 persons assembled at Kohimarama, near Auckland. The persons invited were, with few exceptions, such as were known to

be friendly to the Government. Many of the most influential of them were unable to attend. The meeting had no claim whatever to represent the Native population: it was rather a counter demonstration to the Native meeting at Waikato. The Chiefs, who could have best disclosed the causes of discontent and pointed out the way to a better state of relations between the races, were for the most part absent. Various subjects of moment were brought before this Conference. Among these were plans for the administration of justice in their own villages, for the establishment of mixed juries in certain cases, for the defining of rights to land, and for the issue of Crown Grants to individuals. Even in this carefully selected body dissatisfaction at the continuance of the contest at Taranaki was strongly expressed by various speakers: but the mode of terminating it was not brought under the consideration of the Conference. A statement in justification of the proceedings of the Government was made by the Native Secretary, to which the assent of the meeting was invited and obtained. This was an unfortunate use to make of such an assembly. The statement of the Native Secretary was not complete, nor on all points accurate. Of the persons assenting some were old enemies of the Ngati awa; and the greater number had no means of testing the sufficiency of the statement. An assent so given was not likely to influence the minds of men better informed and more independent. Yet

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the Conference did much good at the time, as a visible beginning, however imperfect, of a better system; as the first opportunity for public and mutual explanation, for stating grievances, and for devising, by common consent, proper remedies for them. The satisfaction of the Natives on this point was keen and lively. They prayed the Governor that the Native Conference should be made a permanent institution. The Native Secretary supported their prayer, and stated it to be "abundantly manifest that, in the present state of the Colony, the Natives can only be governed through themselves." The House of Representatives thereupon voted money for the expenses of another Conference, to be held in 1861: which, if it be a really representative body, will probably do much good.

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17. On the 11th of August, the Conference was dissolved by the Governor. The Session of the General Assembly had commenced a few days earlier. On the 7th of August, Mr. Richmond obtained leave to bring in the "Native Offenders Bill." The Preamble of the Bill was as follows: "Whereas Aboriginal Natives, after committing offences against the law, occasionally escape to remote districts, and are there harboured by Chiefs and Tribes who refuse to deliver them up to justice: And whereas also combinations are occasionally formed amongst Aboriginal Natives for the purpose of resisting the execution of the law and for other unlawful purposes: And whereas it is expedient, in

order to enforce obedience to the law in the cases aforesaid without the employment of military interference, that the Governor should be enabled to prevent dealings and communications with the Aboriginal Natives offending as aforesaid: Be it therefore enacted, &c."

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The Bill provided that it should be lawful for the Governor, by Proclamation to declare any district of the Colony subject to the provisions of the Act. When any district should have been so proclaimed, every person who, without the written permission of the Governor, should do any one of certain specified acts, should be deemed guilty of an offence. The acts were specified in Section 3, as follows:

- (1.) Who shall wilfully visit any part of such district, either by land or water, or, not being a resident thereof, shall remain therein after having become cognizant that the same is subject to the provisions of this Act.

(2.) Or who shall knowingly purchase, or carry by land or water, or receive any goods or chattels whatever the produce of such district, or the property of any aboriginal Inhabitant thereof.

(3.) Or who shall purchase or otherwise obtain any goods or chattels for the use or benefit of any aboriginal Inhabitant of any such district.

(4.) Or who shall knowingly sell any goods or chattels whatever to any aboriginal Inhabitant of any such district, or to any person with intent that the same may be applied or disposed of for the use or benefit of the aboriginal Inhabitants of such district, or any of them, or who shall otherwise carry on trade or commerce with such Inhabitants or any of them.

(5.) Or who shall knowingly and wilfully hold any communication or correspondence whatever, directly or indirectly, with any aboriginal Inhabitant of any such district.

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(6.) Or who shall by counsel or otherwise assist, invite, or encourage the Inhabitants of any such district to offer or continue to offer resistance to the execution of the Law, or shall publish or utter in writing or by word of mouth, any language calculated to invite or encourage such resistance with intent to produce that effect.

(7.) Or who shall refuse or wilfully neglect to depart from or leave any such district within a time to be fixed by the Governor by any writing under his hand, after having been personally served with a copy of such writing, or otherwise made aware of the contents thereof.

(8.) Or who shall aid, assist, or abet any person in the commission of the above-named acts, or any of them, or shall knowingly excite, encourage, solicit, ask, require, or induce any person or persons to commit, or aid, assist, abet, or join in the commission of any of the above-named acts.

The Governor was also empowered to declare by Proclamation, that any Tribe of Natives should be subject to the provisions of the Act. The punishments for offences under the Act were, for a first offence a penalty not exceeding £100, upon conviction in a summary way before two Justices; for a second offence, imprisonment with hard labour for not more than twelve calendar months or less than six, upon a similar conviction; in case of any subsequent offence, the offender was to be deemed guilty of felony, and being convicted thereof before a Court of competent jurisdiction, to be punished by

penal servitude for not less than three years nor more than six. All goods and chattels of any Native inhabitants of a proclaimed district might be seized by any person authorized by the Governor.

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No check or safeguard was provided against the misuse of these enormous powers. No provision was made for any investigation, before any trustworthy and independent tribunal, into the truth of the matters of fact alleged in the Governor's Proclamation, or into the legal character of the facts. We know well how imperfect the Governor's own means of ascertaining the facts would be in most cases. He would be wholly dependent on the accuracy and sound judgment of subordinate officers. These vast powers, nominally entrusted to the Governor, would be really wielded by some unseen and perhaps untrustworthy individual. Yet the Governor's facts and the Governor's law, once proclaimed, were to be accepted as conclusive and infallible. To the persons who were to be visited with heavy penalties for disobeying the Governor's Proclamation no opportunity was given of contesting either the facts or the law.

No proof was offered of the Preamble. Few or no instances of the kind there mentioned had occurred recently.

18. The Natives generally believed, not without reason, that the King movement, or the Waikato land league, would be the first object to which coercion would be applied; that the Waikato district

would be the first to be proclaimed under the Act. Let us now consider how such a measure would necessarily be regarded by a large portion of the population of that district. They have long been employed in establishing some sort of law and order among themselves. They have helped themselves, because we failed to help them; but they have been throughout following our teaching and imitating us. Again, they have been endeavouring to protect themselves against a system of land purchasing which they know to be injurious to their interests, and under which land does not become to them, as to the Pakeha, a source of permanent wealth and comfort. All these things they have done openly and publicly. All this effort to be like us, all this substantial good, is converted into a crime by one foolish title. Suppose then these proceedings denounced by Proclamation as treasonable or unlawful practices, in what position would they find themselves? They would be required to make an unconditional surrender to a power which has failed to win their confidence, a power which has done little or nothing for them, and which by the Proclamation defeats their efforts to do something for themselves. There would be little motive to submit, if submission were possible; but in fact the submission required would be an impossibility. Institutions erected by a people from a strong sense of their necessity, and valued by them accordingly, are not easily suppressed, especially where nothing

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better is offered in their place. To suppress a name is harder still. Even the British Government has warred against names and titles without success.

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The Chiefs of the Native Communities possess only influence, no authority. Even if authority existed, how could offenders be given up who formed half of the population? The alternatives then would be, either an attempt to comply with the Governor's mandate at the cost of civil war amongst themselves, or non-compliance, followed by the most severe penalty; that penalty being no less than the destruction of their trade, the withdrawal, as far as possible, of all the benefits which for twenty years we have been teaching them to prize, of all the comforts and appliances of civilization, possibly of all guidance and instruction for themselves and their children. For the Bill contained no exception in favour even of the Missionaries. Everything was left to the discretion of the Governor.

This punishment would necessarily fall on innocent and guilty alike. For twenty years we have been teaching the Natives to abandon the old barbarous rule, that a whole tribe may be punished for the crimes of individuals, and to adopt the rule of civilization that the evil-doer alone shall suffer. All this was now to be undone. The Government was deliberately to sanction barbarism by adopting the old Maori rule.

One opening was left for escape, and one which the circumstances of the country would greatly

favour. Their neighbours might, and doubtless would, supply what they could not obtain directly for themselves. By so aiding them, those neighbours would become offenders against the Act, and of course be brought within its direct operation. Thus the net of this evil law would gradually overspread the land, the population being everywhere converted into smugglers, carrying on their operations in defiance of a Government wholly unable to check them. Thus the population would be forced into lawlessness and disaffection, by a Government which had professed to civilize and elevate them; and all this for no other offence than for endeavouring to do that which the Government ought to have done and did not, or for endeavouring to protect themselves, by mutual compact, against a system of land purchase, of which many even of ourselves do not approve. These were the alternatives to be proposed to a high-spirited people, irritated by a sense of wrong done, and apprehensive of peril to come. This was to be the commentary on our professions at Kohimarama.

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19. Nor was this measure less notable, if regarded from the English point of view. It was strange and painful to see the Colonial Legislature moved by the Government to deal in this way with persons not represented in the Assembly, to deprive them of the rights of English subjects, and that by an Act to be at once

assented to by the Governor without reference Home; to undo in short all

that England had been doing for so many years; to render impossible the accomplishment of the national undertaking; and, on the plea of upholding the Queen's lawful authority, to falsify the Queen's most solemn promise.

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Strange also it was to hear that constitutional rights and the fundamental maxims of English law were to be simply dismissed, as having no bearing upon the question; and that by persons who had professed emphatically and repeatedly that the Native people should be subjected in all things to one equal law with ourselves. As though those principles and maxims were merely local and conventional rules, accidentally applicable to one time or one state of society, and not to all times and all states, so long as human nature shall remain the same. As if subjects of the Queen were to be punished, and that most severely, upon allegations not proved nor even properly investigated, and for acts pronounced unlawful by no better authority than a Governor's Proclamation. It was strange that men, who by the bounty of the Home Legislature have been allowed to wield powers so large, should so soon forget the spirit of that Legislature, from which they derive everything. Nor less remarkable was it, that a Government which had strongly asserted the principle that the Natives must be governed by and through themselves, and the necessity of providing special institutions for the Maori people, should seek to inflict upon them this terrible pressure without

having previously constructed any organization or proper authority, by means of which the Act might be carried into operation. The Government, with the professed aim of establishing law and of putting down unlawful practices, had provided no lawful way for fulfilling its own behests. If the Governor's Proclamation were carried out at all, it must be by unlawful means, by force unlawfully used by the Natives against one another. Strange indeed it was to see coercive laws, of the utmost severity, resorted to in a land where less than a year ago an unarmed traveller might have passed safely from one end of the island to the other, and where all the disturbance, that has since arisen, is the result of our own acts. It was singular too that legislators, complaining of their want of force to carry out the ordinary law, should propose an extraordinary law which would require still more force; – that, whilst they complained that offenders against the existing law could escape with impunity they should expect to apprehend more easily offenders against the proposed law; – that they should propose to render a population more open to our influence by a process which could only isolate and barbarize them; – that they should wholly disregard the effect of such a law upon our own people, very many of whom likewise would be led to become smugglers by such a law.

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During the discussion of this Bill in the House of Assembly, great excitement prevailed in Waikato.

But happily the Assembly was unwilling to sanction such a measure. The Ministers succeeded in carrying the second reading, but it was found impossible to proceed further. This result has done much good.

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Yet the alarming fact remains, that we have been already brought near to that stage of mis-government, at which a wrong, done in haste or in ignorance, is deliberately followed up by further and worse wrong; at which a Government, having by its own negligence and mismanagement created or greatly strengthened distrust, then makes that distrust an excuse for extreme and ruinous severity; and punishes the people, committed to its charge, for that which is less their fault than its own.

20. The evils and miseries of our present condition have not been unproductive of some good. Our legislators have come to a better understanding of the relations between the two races, – have become aware of the largeness and importance of the problem to be solved, and of the need of some sustained and systematic effort to solve it. The "Native Council Act," however imperfect, is an evidence of this. It is also an encouraging fact that, at the end of a protracted Session, the Waikato Committee investigated, with the greatest care and patience, the causes and history of the King movement; and recognised its true character "as an effort to obtain law and order." In their Report they expressed emphatically their opinion, "that what is wanted is

to prosecute vigorously and effectually the education and instruction of the Natives, so as to fit and accustom them, under European guidance, to take part in the administration of law, with a view to incorporate them into our own system of Civil Institutions, giving them the utmost possible share in the work of their own government"

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Of the extent and nature of the work to be done, this is not the fitting place to speak. Long and patient efforts will be needed, but by such efforts the work may yet be accomplished. There is no obstacle which honest and persevering effort and hearty co-operation may not overcome.

The essential condition is that confidence be re-established. The restoration of peace will not suffice, unless peace be so made as to produce confidence, to create an assurance that injustice is not intended, to leave no suspicion or rankling doubt behind.

21. If the great object of our endeavour is to be attained, we must abandon all thoughts of a policy of intimidation or repression. We must adopt the only rational policy. We must set ourselves patiently and heartily to discover the causes of the existing irritation, and to remove them. We must satisfy the people that our Government yields to them direct and permanent benefit, which they cannot procure for themselves. There still remain, amongst our politicians, men who hold that the Natives are to be governed by demonstrations of

physical force, that we can depend upon nothing else. They appear to hold that justice does not concern human nature in general, that it is a refinement very good and useful for civilized people, but that in Native matters it may be dispensed with. They have not seen enough of the Natives to know, that men may live in poor houses and be ill-clad, and yet have as keen a perception of fairness or unfairness as ourselves. They are not aware that, throughout the past history of the Colony, our strength in dealing with the Natives has been in proportion to their belief in our honesty and justice; – nay, that at this moment our chief strength, that which saves the Colony from evils greater than those we have yet seen, is the belief still entertained that injustice will not be persevered in. Even the wild and vengeful practices of the Maori grew, not from a lack of the sense of justice, but from a misdirection and abuse of that sense. Be just, and you may easily govern the Maori. Be just, and a moderate force will suffice. Be unjust, and a force far larger than England can spare will not suffice. Force is good, if subordinate to justice, but is a sorry substitute for it. The Maori is not to be intimidated; but like all other human creatures, he is to be influenced through his sense of fair dealing and of benefit received: he is governed by the same motives, and led by the same inducements, as other men.

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What is needed for the government of the New

Zealanders is neither terrorism nor sentimentalism, but simple justice: – that plain promises be plainly kept; that our policy be perfectly open and friendly and straightforward; that we deal with the Natives as our fellow-subjects and fellow-men. If we really desire to benefit them, we shall have little difficulty in governing them. But men will never govern well those whom they despise. If we are ourselves sufficiently civilized and Christianized to act in this spirit, the great work may still be accomplished. Our success in civilizing this people will be the truest test, the most correct measure, of the civilization to which we have ourselves attained.

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3 In the statement made by Mr. McLean before the House of Representatives, on the 14th of August last, it is asserted that "it was resolved at this meeting of the Natives, that they should entirely repossess themselves of lands already alienated by them, and drive the European settlers into the sea." In a statement of the proceedings at Manawa pou, furnished to me by Tamihana te Rauparaha, a strong supporter of the Government, who was present at the meeting and opposed the proposals there made, I find no mention of any such resolution as Mr. McLean speaks of. Within the last few weeks a letter has been published by the Rev. Samuel Williams, in which he comments on Mr. McLean's statement, as follows: – "This most startling assertion is positively contradicted by one of the principal chiefs, who was present; the only one who has since been within my reach. I never heard such an idea breathed before. Having seen a number of the Natives on their return from the meeting, I feel convinced that such a scheme would most certainly have come to my ears, had it ever been entertained. If such a resolution had been passed, why was it not acted upon? Nearly seven years have elapsed without the least interference with the Europeans." It is probable that the report which Mr. McLean has adopted, had its origin in some violent proposal, akin to that which was extinguished at Taupo by Tara hawaiki, (above, p. 98.)

[APPENDICES]

APPENDIX A.

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Extract from a letter of Rev. J. T. Riemenschneider, (of the Lutheran Church,) dated Warea, Taranaki, 24th September, 1855, to Donald McLean, Esq., Native Secretary.

"In the first instance, the Taranaki Tribe state that the Government has no just grounds for interfering at all in the Puke-tapu⁴ quarrels, nor for taking any steps whatever against either or both of the two chiefs Katatore and Wiremu Kingi, as regards their life, liberty, estate, or right, &c. &c.

"In support of this argument, they give the following reasons: First, because the dispute and disturbances have originated within and among that tribe, and always been kept confined to the Maori themselves, without interfering at all with the Pakeha and their rights and properties. Secondly, because though Rawiri Waiaua was an officer of the British Government, that still for all that he was a Maori and a member of his own tribe, and that his position in the service of Government did not entitle him to alienate, at his own pleasure, lands which, though owned by himself, still were in some degree property of the tribe, and could therefore only be disposed of by common consent of the latter.

"Thirdly, because Katatore can no longer be proceeded against or punished for having killed Rawiri, as not only he has been left so long a time to be his own and at liberty, but he has also made payment, according to Government demand, for Rawiri's death, by having given up to the Queen the land on which Rawiri died.

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"Fourthly, as to Wiremu Kingi, because he can be accused of no crime; he is on his own land, being the real and true Chief of Waitara.

"In the second instance, they, the Taranaki tribe, express their desire for the continued maintenance of peace between the Europeans and the Aborigines; however, they add at the same time, in a decided tone, that, according to the view the Natives take of Government interference, peace will at once be interrupted so soon as an interference on the part of the military be attempted.

"In reference to these two last named points, these Taranaki Natives declare that the sentiments and proposals, as contained in Col. Wynyard's letters, have their entire approbation, in as far as it is their own (Taranaki) wish that the Puke-tapu should be left to themselves with their own quarrels, and that the military should simply remain what those letters stated they had been sent to be, a protective force for the safety of the European settlement: as long as this policy shall be adhered to, say they, mutual peace and good-will will be upheld and continued between themselves (Taranaki) and the settlers and soldiers. But if the new Governor should set Col. Wynyard's words and plans aside, and, contrary to it, adopt any hostile or coercive steps against either one or both of the two Chiefs, Katatore or Wiremu Kingi, as seemed to be had in contemplation by some Pakeha here, then the first step of such a kind on the part of the Government, would most certainly, on the part of the Natives, be viewed

and received as being the signal and commencement of a general war and life and death struggle between the Pakeha and the Maori: because under present circumstances, and as matters were standing at present, any such step against either Katatore or Wiremu Kingi or both, would be generally viewed by the Aborigines as a pokanoa (aggression) on the part of the soldiers upon the Maori race, and as a first step in a general and grand expropriation movement on the part of the Government (Pakeha) to dispossess the Natives by physical force of their inherited soil; which if once permitted by the latter to be successfully entered upon by the former (Pakeha) would most certainly be proceeded with, and be carried out through the whole length and breadth of the Island, until every inch of land would have passed away from the native owners into the hands of the Europeans, and the Aboriginal inhabitants of the country themselves would have been totally exterminated.

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"For the simple reason alone of preventing such a dread calamity (these Taranaki say) they feel themselves under the necessity of protecting both Katatore and Wiremu Kingi against being in any way touched or proceeded against by the Pakeha and the military. Hence, they declare, as soon as any attempt shall be made by the latter to get any of those two Chiefs into their power, all Taranaki and Ngati ruanui, as far as Whanganui, will rise instantly to a man in arms and hasten to Katatore's and Wiremu Kingi's rescue and support, and they will not relinquish the struggle until they shall either have conquered or have lost their last man in the attempt; because (say they) it is not only for those two individuals the war will be waged, but it will be for the principle which the Natives recognize as bound up in those two men, as soon as they are placed between the two different

races, the Pakeha and the Aborigines. If (they urge) Hone Heke had fallen into the hands of the Europeans, all the Nga puhi lands would have been taken too in consequence, and all that tribe would have been gradually exterminated; and again, if Te Rangi haeata had fallen into the hands of the Pakeha, all the lands in the South would have been taken too as conquest, and all the Maori there would have been cut off after him.

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"The escape of the two last named Chiefs from falling into the hands of the English, had saved both them and their people, their existence and possessions; so it would be here. If Katatore or W. Kingi or both, should be taken by the Pakeha, all the Maori along this coast, including Taranaki, Ngati ruanui, &c, would next be subjugated and cut off by the soldiers, and their lands be taken away as a possession by the Europeans. In the present case (they say) it is even more clearly to be foreseen, than in the case of Hone Heke and Te Rangi haeata, that such would be the result, in as far as here the Pakeha have no just cause to go to fight about with the Maori, and can therefore, if still they do so, have no other object for so doing than to make themselves master of both the Maori and their lands. Whereas in Hone Heke and Te Rangi haeata's case they had the advantage of being able to show that those parties had been the aggressors; owing to which also Te Rauparaha's capture and detention by the British authorities, had created but little excitement among the Natives generally. Here neither W. Kingi nor Katatore had interfered with the Pakeha or their lands, &c.; nay, the latter and his party had even given up to the Queen the lands asked of him by the Governor as utu for Rawiri's death. Hence there was no sufficient reason left why the Pakeha should at all interfere with the Maori and their quarrel.

"Thus fully the whole case has repeatedly been argued before me, during the last fortnight, by the Natives in the Taranaki District, and there can be no doubt that they are in earnest about it. The most sober and quietly disposed amongst them declare, in a manner not to be mistaken, that they will rise because they feel convinced (mohio rawa) that it will be necessary for the defence and preservation of their life, liberty, and possessions, against a system of violence and oppression threatening them and theirs."

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APPENDIX B.

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Extract from the Report of the Waikato Committee, presented to the House of Representatives, 31st October, 1860.

"Your Committee have not been able minutely to analyze the valuable mass of evidence thus collected, but they have unanimously arrived at the following conclusions: –

"They recognize as an undeniable fact, that of recent years, a great movement (attributable to a variety of causes) has been going on amongst the Native people, having for its main object the establishment of some settled authority amongst themselves. This movement is not, in the opinion of your Committee, a mere transitory agitation. It proceeds from sources deeply-seated, and is likely to be of a permanent and growing character. Upon the proper direction of this movement, the peace and progress of the Colony for years to come will greatly depend. Though it does not appear to be absolutely identical with what is termed the King movement, it has become, and is now, so closely connected with it, that the two cannot be made the subject of separate political treatment. The objects of a large section of the Natives were distinctly expressed at the great meeting at Paetai, on the 23rd April, 1857, at which the Governor was present, and at which it was understood by them that His Excellency promised to

introduce amongst them Institutions of law founded on the principle of self-government, analogous to British Institutions, and presided over by the British Government. 'I was present,' says the Rev. Mr. Ashwell, referring to that Meeting, 'when Te Wharepu, Paehia, with Potatau, asked the Governor for a Magistrate, Laws, and Runangas, which he assented to; and some of the Natives took off their hats and cried "Hurrah."'

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"Such a movement need not have been the subject of alarm. One of its principal aims undoubtedly was, to assert the distinct nationality of the Maori race; and another, to establish, by their own efforts, some organization on which to base a system of law and order. These objects are not necessarily inconsistent with the recognition of the Queen's supreme authority, or antagonistic to the European race or the progress of colonization. Accidental circumstances, it is true, might give, and probably have given, to it a new and more dangerous character; as such, at present, appears to be its tendency: but it would have been from the first, and still would be, unwise on that account to attempt to counteract it by positive resistance, and unsafe to leave it, by neglect and indifference, to follow its own course without attempting to guide it.

"For these reasons, your Committee beg to declare their entire concurrence in the views expressed by the Governor in his Despatch to the Duke of Newcastle of the 9th May, 1857, and in the Memorandum accompanying the same.

"In his Despatch, His Excellency writes thus with reference to the King movement and its true character: – 'It was, however, clear that they (the Natives) did not understand the term "King" in the sense in which we use it; but, although they certainly professed loyalty to the Queen, attachment to myself, and a desire for the

amalgamation of the races, they did mean to maintain separate nationality, and desired to have a Chief of their own election, who should protect them from every possible encroachment on their rights, and uphold such of their customs as they were disinclined to relinquish. This was impressed upon me everywhere; but only on one occasion, at Waipa, did any one presume to speak of their intended King as a Sovereign having similar rank and power with Her Majesty: and this speaker I cut short, leaving him in the midst of his oration.'

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APPENDIX C.

Original Text of Maori letters of which translations have been given in the foregoing pages.

It has been thought unnecessary to reprint this Appendix.

THE END.

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