

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 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.

"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:—

"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. 10. 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 Districts 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 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 Circuits Court 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