

the appointment of Magistrates and Native Assessors in a few districts under Sir George Grey's "Resident Magistrates' Ordinance," and some trifling modifications of British Law which the same Ordinance effects in Native cases, scarcely constitute an exception to the foregoing remark. That Ordinance, which is the only one on the Colonial Statute Book directed to the great end of the fusion of the two races, accords in its main principle with the theory of Native treatment above stated. It merely affects procedure. The law to be administered by the Tribunals it establishes, is British Law; and the only change is in the mode of administration.

10. 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 it may reasonably be objected to the theory of Native treatment above stated, that 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.

11. 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.

12. 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 germ 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 recognized 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.

13. 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.

14. The simple measures, suggested by your Excellency, of directing the Resident Magistrates to hold Circuit Courts, will, we think, not merely greatly increase the efficiency of those Officers, but, in a way to which we shall presently advert, will afford a safe basis for important changes. We entirely concur in that suggestion.

15. It was the announced intention of Sir George Grey that the institution of Native Assessors should serve as introductory to that of the Jury. We think a further step should at once be made in the direction, by considerably increasing the number of Assessors. This, indeed, is involved in the establishment of Circuit Courts; as Assessors must be provided in each village. It would be inexpedient to admit the principle of direct popular election to this Office. Great care should, however, be taken that the Assessors possess the confidence of their respective Tribes; and for this purpose, the Magistrate on Circuit should be instructed to ascertain what persons the inhabitants of each Village desire to see appointed to this Office; when, if no special objection appear, the popular wish should be complied with.

16. While seeking a broad popular basis for this institution, it will be necessary to avoid anything which might have the effect of alienating the Chiefs, who should be consulted upon any appointment. We concur in your Excellency's suggestion for the classification of the Assessors, and think such classification may be made the means for avoiding the offence to men of rank, which might otherwise possibly arise from associating them in the office of Assessor with their inferiors.

17. The Assessors of the first class should consist exclusively of the higher Chiefs, and should receive from £20 to £50 per annum. They should be considered as having a distinct jurisdiction over all the settlements of their tribe. Assessors of the second class should receive from £5 to £20 per annum, and their jurisdiction should be over their own villages. There should be a general class of probationers without pay. Regular Commissions under the Colonial Seal should be issued to the permanent Assessors, on parchment, or paper, according to the class. All should be sworn in to the execution of their duties with some public solemnity.

18. Following out the notion of subjecting by degrees the whole social economy of the race, (so far as it is not repugnant to the principles of humanity, or to the fundamental principles of British law,) to fixed and reasonable rules, and of bringing it within the cognizance of regular tribunals, it is to be looked forward to, that the Circuit Court will ultimately assume jurisdiction over cases where ter-