NOTE 20.

"It does not appear."..... (Page 4.)

On the contrary, it is maintained that this was just the time and place to do it. There is little doubt that it is a custom among the New Zealanders that if a person present at the offer of land does not put in his claim at the time, he is held to be barred. The Rev. Riwai te Ahu, in his Evidence before the Board of 1856, said: "I think that if claimants do not come forward at the proper time, they should forfeit their claims." It was this which caused the cry which arose among the Natives at the meeting, "*Kua riro a Waitara*" (Waitara is gone). The Governor had just declared that while he would buy no man's land without his consent, he would not permit any one to interfere in the sale of land unless he owned part of it. Wiremu Kingi was bound distinctly to say, *then*, whether he claimed a proprietary right, or was merely repeating the determination he had constantly expressed before, of prohibiting the further sale of land even by the rightful owners. He did not say it, and the Natives cried out, "Waitara is gone."

NOTE 21.

"Even now it is not easy to gather." ..... (*Page* 4.)

There was no doubt or ambiguity in this at all. The point contended for by the Governor was, that in accordance with precedents the sellers, as proprietors of land, should be allowed to sell it, and that Wi Kingi should not be allowed to prevent them. The point contended for by William King was, that he should be permitted to carry out the determination of the Land League, that no land should be sold by the rightful owners thereof even though they should not have joined the League. It was laid down by the League that any man attempting to sell land should be put to death. This was distinctly stated by Mr. Rogan, in his Evidence before the Board in 1856.—(See Note No. 1.)

NOTE 22.

"There is a remarkable difference between the two."..... (Page 4.)

On the contrary, the Government view of the case has been perfectly consistent throughout. The Government relied, 1st, on the cession of the whole Taranaki district from the Waikato Chiefs in 1841; and 2nd, on the uniform decisions of successive Governors, which entirely denied the general tribal title of the Ngatiawas to have been revived since that cession.

For the present purpose it may be conceded that "according to Maori usage the conquered tribe was held to be justified in doing their utmost to recover possession if possible of their fathers' land, and that nothing but their inability to do that made the title of the conquerors complete." But there was not the shadow of a doubt that up to the time of the establishment of British Sovereignty in 1840, it was utterly out of the question for the Ngatiawa to attempt the reconquest of their territory from the Waikato. Does Sir William Martin mean, that *after* the establishment of our sovereignty the Ngatiawa might have made the attempt?

The cession of sovereignty to the Queen by the Treaty of Waitangi of course *finally fixed the relations between any contending tribes at the point at which they stood in February* 1840. The Ngatiawa not having been able (according to Maori law of Might) to reconquer their territory from the Waikato up to 1840, and the law of Might having been abrogated by the cession of sovereignty, in follows that in 1840 any right which formerly existed in the Ngatiawa was determined, and that according to Sir W. Martin's formula there remained that "utter inability to recover possession" which made "the title of the conquerors complete." The "right or might of the conqueror or successful invader," to use Sir W. Martin's own words, had "prevailed absolutely, displacing the Tribe altogether, and sweeping away all rights of the Tribe, of the Chief, and of the clansmen alike."

It was this title then, complete according to existing Maori right at the time of the Treaty, and not subject to be altered afterwards by resort to force, which Governor Hobson acquired by his purchase in 1841. The then Chief Protector of Aborigines himself negotiated the purchase; and in accordance with what was the real state of the case at the time, the deed of sale which he drew out did not purport merely to surrender *a claim* on the part of Waikato, it proceeded, in the terms always used in cases of absolute alienation, to sell and convey *the land*.

The Government might have rested from the first on this title. That Governor Fitzroy as a matter of policy suffered the Ngatiawas to bring in a claim afterwards, in no way altered or modified the completeness of the original purchase from Waikato. The same thing has been done over and over again: for instance, in the case of the territory of the Rangitane tribe in the Middle Island, the land was bought from the conquerors, but afterwards payment as a matter of grace was made to the conquered Rangitane also: but no one ever pretended that the Rangitane reverted to their original rights before the conquest.

NOTE 23.

"That which Potatau really possessed."..... (Page 5)

What possible right of the sort could Potatau possess after the establishment of the Queen's sovereignty? The Waikato had completely driven off the Ngatiawa years before, and at the time of