

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 fathers. 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 patient, 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 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.*

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.

His Excellency the Governor.

The Honorable the Officer commanding the Troops.

The Honorable the Colonial Secretary.

#### PRESENT.

The Honorable the Attorney General.

The Honorable the Colonial Treasurer.

The Honorable 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 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 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.

"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 Honorable Colonel Gold and the Honorable 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 publication hereof, within the Province of Taranaki until the relief of the said district from Martial Law by public Proclamation.

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

"I have the honor 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.