NATIVE AFFAIRS.

rule, Land Purchase Commissioners have been quite as successful in procuring the attendance of necessary persons as Land Claims' Commissioners.

106. Sir William Martin's concluding query, why was not "the same thing done in this case?"—that is, why were not Wiremu Kingi's claims investigated by a Land Claims Court—is easily answered. More has been done in his case than in any other. His claims have been fully investigated by both a Land Claims Commissioner and a Land Purchase Commissioner, and both have reported against him.

107. The statement that the Natives of New Zealand are not, even in ordinary civil affairs, amenable to the jurisdiction of English Courts, needs no proof to those who have any acquaintance with the country. Were it not that the Natives have, coupled with their strong love of gain, a natural sense of obligation, and some shrewd appreciation of the necessity of maintaining good faith in commerce, the evil would be intolerable. As it is, it is very great. They perfectly understand the advantage of resorting to our Tribunals for the assertion of their own rights. But the enforcement of the rights of the European creditor is a thing scarcely heard of. Against a Chief of any standing it would be impossible without war.

108. The records of the Northern division of the Supreme Court perfectly bear out this assertion. From the foundation of the Colony down to the 1st January, 1860, eleven writs have been issued against Maories. Only one case proceeded further than the issue of the writs. There has been an instance of the refusal of a Writ of Injunction applied for by one Native Chief against another. The Judge asked "Of what use will my writ be?"

109. The following extract from a petition not long since presented to the Governor by a person who had recovered judgment against Natives for a large sum in the Supreme Court, illustrates this state of things. After a preliminary statement, showing that he had recovered judgment, the petitioner proceeds as follows :—"Your Excellency is aware, in Courts of Law in England the decision would have been "final, and I hoped the same might have been the case here. But I am sorry such is not the "case. * * * I have now no other alternative but to appeal to your Excellency that you may be "pleased to order an investigation of the matter, so that I, one of Her Britannic Majesty's subjects, "and a poor man, may be entitled to that right and justice of which my country boasts her supremacy "throughout the world. I have now for some twelve months past devoted my whole time, neglecting "all other things, to obtain that right and justice. I find myself more placed in difficulties than "I was before I commenced the proceedings. I have travelled far and wide, through all states of "weather and all exposures, to obtain that right. I have claims against myself which I am anxious "to pay. I have, with difficulty, maintained my wife and child, depending all on the settlement of my "claim—not to say the settlement now, but the payment. If the payment is not made me by the "Government authorities, the consequences will be I shall be proceeded against by my fellow-country-"men, and the consequences will be, I shall become, perhaps, the inmate of a Gaol. The Maori is "never troubled with such an unpleasant alternative as the European in many instances is. Trusting "your Excellency may give this your consideration, I beg to remain, your Excellency's most obedient, "humble servant, &c." The Government declined to interfere. The petitioner's fears that he might become the inmate of a gaol proved prophetic, for, within a twelvemonth, he was arrested for debt, at the suit, not as he anticipated of one of his fellow countrymen, but of a Maori Chief.

110. In the Courts of inferior jurisdiction the case is the same. The European plaintiff is compelled to trust to the sense of right or of interest in the Native debtor. Cases have occurred in which proceedings have been instituted against influential Natives, not in any expectation that the judgment of the Court could be enforced, but as a mode of bringing pressure upon the Government. To avoid the danger of attempting a levy upon the goods of the Native defendant, the Government has, in some cases, paid the demand. The Resident Magistrates have occasionally taken upon them to refuse the issue of a summons in civil cases. A civil summons against Wiremu Kingi himself was, some years since, refused to a New Plymouth settler. In order to get rid of the improper pressure upon Government which has been above adverted to, it was provided by "The Resident Magistrate's Court Act, 1858," that "it shall be lawful for any Resident Magistrate to delay, so long as he shall deem it "expedient to do so, the enforcing of any judgment obtained in such Resident Magistrate's Court "against an aboriginal Native." This power was acted on in a recent case although the defendant was in the town of Auckland.

111. Such being the degree of obedience to the decisions of Courts of Law, on purely civil questions, which it is found practically possible to exact from the Natives of New Zealand, it will readily be supposed that in cases of crime, whether committed by Natives against Europeans, or by Europeans against Natives, they are not very tractable. In cases of the former class, the surrender of the offender, if obtained at all, is invariably a matter of negociation. In cases of the latter class, the Natives always evince, more or less, a desire to take the law into their own hands, and to use violence both towards the offender (or supposed offender) himself, and towards his unoffending countrymen. Cases of murder or homicide cause very great excitement. Native custom requires that life shall pay for life, and is not particular as to the victim. It is sufficient to mention, as instances of such occurrences as are referred to in this paragraph, the case of the Kawau powder robbery, Sutton's case, Marsden's case, and the late case of the death of a Native, by means unknown, in the neighbourhood of Auckland.

112. Least of all are the Maories inclined to endure any judicial, or other interference, with questions of territorial claims. This fact is noted by the first Governor of New Zealand, in a despatch, of which an extract appears in the Appendix (71). Captain Hobson intimates his fear, with reference to this very Taranaki question, that Te Wherowhero "will not be governed by abstract rights, but

(71) *Governor Hobson*, App. p. 15.