

had been raised whether certain persons of the Maori race were natural-born subjects of Her Majesty, and whether the Courts of the Colony had jurisdiction in all cases touching the persons and property of the Maori people, and by that Act it is declared and enacted in the second section that "Every person of the Maori race within the Colony of New Zealand, whether born before or since New Zealand became a dependency of Great Britain, shall be taken and deemed to be a natural-born subject of Her Majesty, to all intents and purposes whatsoever."

I am not well aware of the circumstances that gave occasion for the passing of this Act. So far as I have been able to learn, the principal reason for the measure was that it was deemed expedient that there should be a legislative declaration on the subject, rather for the purpose of declaring that the Maori race would, for the future, be treated as entitled to the rights, and as subject to the obligations, of natural-born subjects, than for quieting any doubt in the minds of those whose opinions on the subject were entitled to consideration.

Moreover, an opinion had been given by the Law Officers of the Crown in England (inferentially at least) by questioning whether the Maoris, in respect of land over which the Native title had not been extinguished, could bring any action of trespass or ejectment in the Queen's Courts in New Zealand, or whether the Queen's Courts would ever exercise jurisdiction over real property in Native districts. From this inferential expression of opinion it is possible that an impression may have arisen, though certainly without reason, that the Queen's Courts would not redress personal wrongs when suffered by Maoris. The language of the Act seems rather to convey the notion that the Legislature intended to confer rights than to create liabilities. However, the Act does undoubtedly put beyond all question the status of the Maori inhabitants of New Zealand, whether born before or after the Queen's assumption of sovereignty.

If it be granted, as no doubt it must, that the Queen is Sovereign over all the territories within New Zealand, and that the Maori people are natural-born or naturalized subjects of the Queen, the next question for consideration is, whether, in dealing with the Maoris now in arms, the usual laws of war are to be observed.

It has been already shown that not only natural-born and naturalized citizens, but also aliens dwelling in New Zealand, are alike subject to the municipal law of the land, and alike liable to punishment for the breach of these laws. It follows from this that, in suppressing a rising against the constituted Government, the same measures may be taken against those who are citizens and those who are aliens only for the time dwelling in the land. Indeed to both classes of persons the term "rebels" may justly be applied; they both owe allegiance to the Crown in return for its protection. If the Maoris were the subjects of a foreign State at war with the Queen, then, no doubt, such persons could not be considered as rebels: but the Maoris are not the subjects of a foreign State; they are subjects of Great Britain, and are now in arms against the Sovereign.

It is not easy, nor perhaps possible, to lay down any general rule which ought to guide the Sovereign in dealing with those of his people who take up arms against him. It may be sufficient to say that when rebellion has assumed such proportions that those who are in arms against the Sovereign would be able, if forced to do so by the conduct of the Sovereign towards them, to take such reprisals upon those who adhere to the Sovereign as to insist upon the observances of the usages of war, then probably those in rebellion should be treated as enemies with whom the usages of war should be observed. The adoption of such a course is forced upon the Sovereign with a view to confining the effects of war to narrower limits. Acting from such motives, prisoners taken by the Sovereign would not be put to death as rebels, whether with or without trial, lest those prisoners who should be taken by those in rebellion should in reprisal be put to death. The reason for the observance of the usages of war fails (whether the war be a civil war or between State and State) if those in arms on the opposite side violate the laws of war. No doubt, in such a case, the consequences of such violation of the rules of war ought to be confined to those who are responsible for and have taken part in them, and ought not to be extended to those who, taking no part in them, are nevertheless implicated in the rebellion.

The Maoris now in arms have put forward no grievance for which they seek redress. Their object, so far as it can be collected from their acts, is murder, cannibalism, and rapine. They form themselves into bands, and roam the country seeking a prey.

In punishing the perpetrators of such crimes, is the Sovereign to be restrained by the rules which the laws of nature and of nations have declared applicable in the wars between civilized nations? Clearly not. Even if those now in arms had not been guilty of such enormous atrocities, it does not appear to me that the insurrection or rebellion is of such a character, or has yet reached such proportions, as to enable it to be said that those who, having taken part in it, are captured, ought to be treated as prisoners of war. I see no reason why they should not be treated as persons guilty of levying war against the Crown. No doubt, in so treating them, the Crown would exercise its power with mercy: the numbers of those in arms, and who have been and are likely to be captured, and the fact that the men are of a savage race, afford sufficient reasons for confining the highest penalties of the law to those who are the leaders of the revolt, or have actually participated in the atrocities that have been committed. Unfortunately, however, the revolt has been carried on in defiance of all the laws of nature, and there can be no doubt that all who have taken part in it have forfeited all claim for mercy: certainly, all title to the observance towards them of the usages of war, if they ever had such title.

Nevertheless, the measures taken to suppress such revolts as those that have occurred, and no doubt will continue to occur amongst the Maoris, should be such as are calculated to suppress, and not to extend or exaggerate them; and with this view, no doubt, the Government will, as it has always done, treat those who have taken part in such revolts with no greater severity than the circumstances of the case may seem to require.

Reference is made, in the questions put to me, to the Despatch of the Secretary of State, Lord Granville, of the 26th February, 1869. In this he says, "I see it stated in the newspapers that you have offered a reward of £1,000 for the person of the Maori chief Titokowaru (I infer alive or dead),