

Furthermore, there is no evidence to show that it was upon any plea of illegal detention or bad treatment at the Chatham Islands that they sought to take revenge. Endeavours were very properly made by the learned counsel for the defence to show that all their subsequent attempts were in consequence of the treatment they had received at the Chatham Islands; but you will see that those endeavours failed. No doubt the mere act of escaping from there is such as no one will blame them for, for they only obeyed the first law of nature. But they brought guns from there which were not their property, and they used those guns afterwards and took other guns. The case does not, however, stop there, for we have positive evidence as to the intention of Te Kooti, from what he repeatedly said in the hearing of persons at times antecedent to that at which their men voluntarily took a part in his acts. Gentlemen, if there were no other purpose that this trial could serve than this, it is well that the Colony, the Mother Country, the world, should know that the deliberately avowed and repeated intention of Te Kooti was, as it has been expressed,—and I shall use no language of rhetoric to characterize the expression—to annihilate the *momokino*, the “bad breed.” On pressing the matter, and questioning the witnesses as to what Te Kooti meant by the “bad breed,” and what was understood by it by his followers, it became a clear matter of fact that the “bad breed” did not mean this man or that; it did not mean the pakeha, the foreigner merely, but the Government people of both races. Throughout the whole disastrous events, both the language and the actions of this party showed that their attacks were levelled against those who supported the Government. What Government that was there can be no doubt. It was the Government of Her Majesty in the Colony. Therefore, I say this is so pregnant and important a fact, that if nothing else resulted from this trial, your long detention from your homes, the inconvenience you have been put to, and which you have borne so patiently and intelligently, would be but little in your estimation compared with establishing the fact before the world that such are the intention and meaning of those persons, who, I am sorry to say, are still, as far as we know, in more or less active insurrection against the Government. The importance of the trial in this respect, of course, so far from tending to prejudice the prisoners at the bar, would have rather a contrary effect, for I say, notwithstanding the perhaps justifiable observation of the Attorney-General, that to my mind what becomes of these three men is comparatively insignificant to the great fact which this trial will probably establish,—that, as far as regards the circumstances of that portion of the Colony with which this case is connected, the Government has not been acting otherwise towards the hostile Natives than for the maintenance of the peace of the country, and that Te Kooti and his followers have not set up the pretence of a grievance done to them.

Much has been said during the trial as to the relevancy of particular facts towards establishing the general conclusion charged in the indictment, but having paid due attention to the suggestions of the learned counsel for the defence, I have not seen my way to the disallowing any part of the evidence as to events, from the landing at Whareongaonga to the taking of Ngatapa, because, to the best of my judgment, all the acts appeared to be done in pursuance of one common design, perhaps originally instituted by Te Kooti, but carried out by him and his followers, of whom were two of the prisoners from the first, and the third joined them afterwards, all three, according to the evidence, taking an active part at some time in the conspiracy, and being well informed as to their leader's objects and intentions. The line of the case for the prosecution is this—that having arrived from the Chatham Islands, where they possessed themselves of the ship and overpowered the guard, and brought away the guns of the guard with them, they went through a series of engagements with what I call the Queen's Troops—the troops of the Government of the Colony; that, living together in camps and pas, they had daily instructions, and that they were from time to time ordered by him to go by night, as detached parties called “*kokiris*,” for the purpose of doing what? On one occasion to fetch ammunition; on three occasions, at least, if you believe the evidence, for what purpose? Not meeting the troops with whom they were fighting according to the custom of war, but going to detached places where settlers were, and Maoris friendly to the Government, for the express purpose of assassinating and destroying men, women, and children, who might be friendly to the Government. Whether the prisoners themselves took part in this particular action, or were one of this particular *kokiri* or that particular *kokiri*, seems to me to be a matter of little importance, if they voluntarily continued under Te Kooti, taking part in his proceedings, after the first occasion on which an order of this kind was given. Whatever may be the degrees of moral guilt, clearly in point of law they must be as guilty as if they themselves drew the murderous sword or fired the destroying gun.

[His Honor here described the relative positions of the various places at which the several events took place, and read the evidence at length to the jury.]

Gentlemen, the case has occupied much of your time. If any of us, fallible and weak as we are, have in the course of the investigation allowed our minds to be either clouded by prejudice, or excited, I need not urge upon you that, now that solemn moment is coming when you are to determine, so help your God, are these men guilty of the crime laid to their charge, you will allow no passion, feeling, or prejudice, or suggestion from any source but one, namely, the evidence, to weigh either for or against the prisoners at the bar. As I said before, it may be that the moving spirits who have designed this great evil have not yet reached the hands of justice; but that, I again point out to you, can be no justification for making these men irresponsible for the acts that were committed by the followers of those leading spirits, if done in common concert with them. With regard to the question of levying war, I repeat that attacking the Queen's Troops—and these men were the Queen's Troops for this purpose—is of itself levying war; resisting the Queen's Troops when they are supporting the Queen's authority, or endeavouring to take a place occupied by the Queen's Troops, is of itself levying war against the Queen. Can you have any doubt, the principal if not the only object existing in the mind of Te Kooti, and known by all his party to be existing in his mind, was to throw off the yoke, as they might have termed it, of the British Government; to rid themselves of that which they might consider an interference between them and the enjoyment of the whole country? No possible suggestion can hereafter be made, with regard to this portion of the Native race, at all events, that their object was to get back land of which they complained that they had been wrongfully dispossessed. No suggestion can hereafter be made that their conduct was even retaliation for some oppression or injury which they