questions must be answered in the negative." It appears, then, that the Law officers hold that the Colonial Courts have no cognizance of questions of Native title or occupancy in any case.

If this view be correct, it follows that William King and his people had no legal and peaceable means of redress through any tribunal capable of entertaining their suit. Nor was any mode of settling the question by arbitration ever proposed by the Government.

7. It is not meant by this that the Government had proceeded regularly and lawfully up to this point, and that now it became the duty of the opponents to appeal to the Law to protect them; and that, therefore, the first wrong was done on the part of the Natives in not seeking redress by Law. The first wrong was not on the part of the Natives; it was on the part of the Colonial Government. What is maintained is this: that it was not their business to appeal to the Law in the first instance, but the business of the Government. The party which sought to disturb the existing order of things, was the party which needed to justify itself by some legal warrant for so doing (58). It was bound to establish its right first in some legal way, due opportunity being afforded to the opponents of defending their counter claims. The Government had already put itself in the wrong by taking forcible possession without lawful authority.

This is the point which was forgotten throughout, that the Governor, in his capacity of land buyer, is as much bound by law as other land buyers. The rights of William King and his people, in respect of that piece of land, were not altered by the fact of the Governor being the purchaser. They were the same as if Teira had sold to any private person. The Governor has no more right to seize land upon the decision of his own agent than any other land buyer would have. He has no right to take possession, except where a private buyer would have such right: no more right in the case where he is buying land from a Maori, than where he is buying from a Pakeha. The Government, however, did not stay to obtain legal sanction for its act. It proceeded to take possession by an armed force, and, without any legal authority, to oust subjects of the Crown from their lands (59). As we have said, the Government had not protected the Native claimants as it was bound to do. It had not submitted their case to a proper inquiry. In failing to protect them, the Government had failed to protect itself. As there was no legal decision upon the Native rights, so there was no legal warrant for the Government to take the land.

8. It is not meant to be suggested here that William King and the other claimants knew or thought much of Constitutional rights or English Law. They had sufficient natural sense of fairness to know that they had not been treated fairly. The tribal claim, put forward by their Chief, had been simply disallowed by the Government, never investigated. There were claimants, even on the ground, who did not consent; yet possession of the land was taken without their consent. So far as there had been any investigation at all, it had been left to Mr. Parris; who, under the circumstances, could not be regarded by them as a fit person for that office. As was to be expected, William King and his people did not appeal to the Queen for protection against those who wielded her power. They met force by force.

9. What was the character and degree of their criminality in so doing? Their resistance was highly criminal, for blood was unlawfully shed, and that as the natural and foreseen consequence of that resistance. Does their offence amount, as is often assumed, to the very highest of all criminal offences—the offence of treason—to open rebellion against the sovereign authority of the Queen of England? To constitute such an offence, it is essential that those who resort to unlawful force shall propose to themselves some unlawful object of a *general nature*.

"All risings in order to effect innovations of a public and general concern by an armed force are, in construction of law, high treason within the clause [of the Statute of Treasons] of *levying war*. Insurrections likewise for redressing national grievances, or for the expulsion of foreigners in general, or indeed of any single nation living here under the protection of the king, or for the reformation of real or imaginary evils of a *public nature, and in which the insurgents have no special interest*—risings to effect these ends by force and numbers are by construction of law within the clause of levying war, for they are levelled at the King's Crown and Royal dignity." So says Mr. Justice Foster.

"Tumults," said Lord Ellenborough in Watson's Case, "the object of which is the *peculiar private and individual interest of the parties engaged in them*, are distinguished, by the Statute of Treasons itself, from attacks upon the Regal authority of the Realm."

In *Brandreth's* case, Lord Tenterden thus stated the law:—

"Insurrections and risings for the purpose of effecting by force and numbers, however ill-arranged, provided or organised, any innovation of a public nature, or redress of supposed public grievances, *in which the parties had no special or particular interest or concern*, have been deemed instances of the actual levying of war."

In *Frost's* case, the facts were these. Frost had combined with the other prisoners to lead from the hills, at the dead of night, to the town of Newport, some thousands of men; of whom many were armed with deadly weapons. These men arrived at the town by daylight, and after firing upon the civil authorities and upon the Queen's troops, were defeated and dispersed. Chief Justice Tindal, in summing up the evidence, refrained from expressing any opinion of his own, whether or not the insurrection aimed at objects of a general or a particular nature. He introduced the following passage from Sir Matthew Hale's *Pleas of the Crown*: "if men levy war to break prisons to deliver one or more particular persons out of prison, wherein they are lawfully imprisoned (unless such as are imprisoned for treason,) this, upon advice of the Judges upon a special verdict found at the Old Bailey, was ruled not to be high treason, but only a great riot; but if it were to break prisons or deliver persons *generally* out of prison, this is treason." In conclu-