

proceedings, to the competency and fitness of the tribunal, rather than to the amount sued for. As to the amount a sufficient check would be supplied by the power reserved under the rules circulated by the Government in 1859, namely, the power of revising the sentence by reducing the amount of the penalty or damages. In this way the authority of the Queen is commended to the Natives by being interposed only in the form of protection and mercy.

Between themselves, and in their own Courts, there ought to be no bar to proceedings in the nature of actions of trespass, ejection, &c., in respect of Maori land: but the decisions of such Courts should not be accepted as conclusive evidence of the title, until confirmed by the Land Court.

Every decision should be recorded in a book to be supplied for that purpose to the Native Magistrate, and be inspected by the Resident Magistrate on his circuits, to be made at short intervals through his district. Native Magistrates, when once fully appointed, should not be removed, except after full opportunity has been given for explanation of the acts complained of.

In these Native Courts the Resident Magistrate should be at liberty to take his seat at all times, not so as to take the place of the magistrate or to weaken his authority in any way, but rather to help and direct him.

*Resident Magistrate.*

12. As to the jurisdiction of the Resident Magistrate in settling civil questions between English and Maori, sufficient provision is made by the existing law. Their decisions in such cases should be subject to an appeal (under proper restrictions) to the Civil Commissioner. The Resident Magistrate would also exercise the ordinary summary jurisdiction in criminal cases, and also the ministerial jurisdiction with a view to trial before the Civil Commissioner or the Supreme Court.

*Civil Commissioner.*

13. Coming now to the question of the jurisdiction to be given to the Civil Commissioner, I find in the Memorandum submitted to Governor Grey by the Colonial Ministers in November, 1861, a recommendation that all criminal cases arising in Native Districts should be disposed of in the Commissioner's Court, excepting only cases of homicide. The Ministers go on to say: "The District Commissioner will be a person of personal character sufficiently high to create confidence in the decisions of the Courts which he superintends; and ultimately the Governor in Council has the power of pardon. The proposal to establish regular circuits of the Supreme Court, Ministers submit to be premature; they think that for the present the Supreme Court should be resorted to in the case of homicide alone, in which case Ministers concur in the very great importance of the trial taking place in the district where the offence may have been committed—a proposition which will, no doubt, be fully appreciated by the Native race. The Supreme Court could in such cases be put in motion by Special Commissions. Ultimately, when more complicated relations arise between the Natives and Europeans living together, regular circuits will no doubt be desirable." I would propose that resort should be had to the Supreme Court, in the way proposed by Ministers, not only in cases of homicide, but also in cases of any actual violence of a grievous kind to the person of a man or woman.

With this exception, all cases civil and criminal, where the defendant or accused person is resident within the district, should come within the jurisdiction of the Commissioner. Also that jurisdiction should attach equally, whether the offence or cause of action arose on lands held under the Native tenure or under Crown Grant. The accused should, in all cases arising between the two races have, if desired, the benefit of a mixed jury, a device which was long employed in England for the settlement of questions between persons of different races, and is, to a considerable extent, recognized in "The Jury Amendment Ordinance of 1844," and in "The Jury Amendment Act, 1862."

To guard against an occasional failure of justice, it might be provided that, if three-fourths of the jury pronounce the accused guilty, it shall be competent for the Judge or Commissioner (if he agree with the finding of the majority) to award such punishment as he shall think right, within the limits allowed by law. With this exception, offences should be dealt with by the Commissioner and a mixed jury, in all respects according to the ordinary course of procedure: the sentence being of course subject in this, as in all cases, to be remitted in whole or in part by the Governor.

*Police.*

13. The number of serious crimes committed in Maori districts has hitherto been small. But it is necessary, in order to quiet men's minds and to keep up confidence and good feeling between the races, that proof should be given, when needed, of the existence and nearness of a power strong enough to repress wrong doers and protect the peaceful and well disposed. For this purpose an efficient police force is needed, which should receive its orders from the Civil Commissioner. A Native Police Force might be raised by calling on the friendly tribes throughout the country to supply volunteers. No combination need be feared in such a force. The position of every such guardian of the peace should be made valuable and honorable. Their duties should be clearly defined. Amongst ourselves in old times the duties of ministerial officers of the law were in some cases set out very minutely in the oaths of office. Some such forms might under our circumstances be found useful, and be made impressive by being formally and publicly administered before the Commissioner.

*Civil Cases.*

14. In civil cases the Commissioner should exercise within his district all such powers as by law belong to a Judge of a District Court, mixed juries being employed here also in cases above a certain amount.

*English Procedure to be modified.*

15. In order that the system here sketched out should be complete, that is to say, should carry within itself all requisite powers up to the full measure of the need, it will be necessary in cases between persons of the two races to allow a certain departure from the usual course of English procedure. I refer to the rigid separation between the civil and the criminal consequences of a