

“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 newspaper that you have offered a reward of £1,000 for the person of the Maori Chief, Titokowaru (I infer dead or alive), and £5 for the persons of Maori rebels brought in. I do not pronounce any opinion at present as to the propriety of these steps, but I must observe that they are so much at variance with the usual laws of war, and appear, at first sight, so much calculated to exasperate and extend hostilities, that they ought to have been reported to me by you officially, with the requisite explanation, which I should now be glad to receive.’

“The Secretary of State uses language from which it may be implied that those who have and are still perpetrating such atrocities as have been perpetrated here, ought, in his opinion, to be treated as enemies carrying on ‘hostilities’ according to the usages of war, and that such hostilities may be exasperated and extended by the offering of rewards for the apprehension of such enemies.

“This measure does not seem open to any objection in the case of a Government engaged in the suppression of a revolt, accompanied, as such revolt has been, with all the unrelenting cruelty of savage nature. The object of the Government is self-preservation. The peaceful citizens must be protected at all costs. Even in the case of a foreign enemy who violates the laws of nature and the usages of war, the utmost severities are permitted as a punishment for his crimes. According to *Vattel* (book III. ch. viii.), ‘There is one case in which we may refuse to spare the life of an enemy who surrenders, or to allow any capitulation to a town reduced to the last extremity. It is when that enemy has been guilty of some enormous breach of the law of nations, and particularly when he has violated the laws of war. This refusal of quarter is no natural consequence of the war, but a punishment for his crime,—a punishment which the injured party has a right to inflict. But, in order that it may be justly inflicted, it must fall on the guilty. When we are at war with a savage nation, who observe no rules and never give quarter, we may punish them in the persons of any of their people whom we take (these belonging to the number of the guilty), and endeavour, by this rigorous proceeding, to force them to respect the laws of humanity.’”

4. Mr. Stafford, in his Memorandum on this question, remarks:—“Earl Granville suspends his judgment as to the propriety of these steps (*i.e.* the action of the Colonial Ministers in offering rewards for Titokowaru and Te Kooti), on the ground that ‘they are much at variance with the usual laws of war.’ When his Lordship shall have had leisure to consider the details of the acts of