

“from the first, and the third joined them afterwards,—all three, according to 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 you 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 that 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 even pretended to have received at the hands of the British Government. No suggestion can be made that the insurrection in this part of the Colony was the result of misconduct, ill-feeling, or mismanagement on the part of the European settlers or of the Government. With matters which are called political, we have nothing to do here. It may be that some persons may think that if these prisoners had been better guarded these events would not have occurred; but what justification can that be to them for anything further than their escape, which undoubtedly the law of nature suggested to them? If it were necessary to show this distinctive motive more clearly, does it not appear that the mode by which they sought to shake off the yoke of British rule was by annihilating the British people? Ay, and so little was there of anything