

and it seems to me that fear of the Waikato, coupled with a desire to have Europeans to reside amongst them, to protect them from their enemies, was one of the principal moving causes that induced them to consent to the sale of the district.

It appears to me that those Ngatiawa who, having left this district after the fight, sought for and obtained another location, where they lived and cultivated the soil, and from fear of their enemies did not return; cannot now show any equitable claim, according to native customs, or otherwise, to the land they thus abandoned. Had they returned before the sale, and with the consent of the resident natives, again cultivated the soil without interruption, I should have held that they were necessary parties to the sale.

During my residence in this country, in the execution of my commission for a period of between three and four years, I have taken every opportunity of ascertaining by every means in my power all native customs respecting the tenure of land; and, in my decisions, I have endeavoured in every instance to respect them, where certain; and, where doubtful, or not clearly ascertained, I have allowed justice, equity, a common-sense view, and the good conscience of each case, to supply their place.

Bearing all these points in mind, I am of opinion that the adoption of a contrary doctrine to that which I have just laid down would lead to very serious consequences, not only as regards titles to land between the aborigines themselves, but also as between them and the Europeans.

It appears that some of the Ngatiawa tribe, after the arrival of the Europeans, and the formation of the settlement, when they thought themselves in consequence safe from their enemies, did return to Taranaki and commenced the cultivation of land within the limits of the block previously alienated to the New Zealand Company; but I cannot for the reasons stated above admit their title, a recognition of which would oblige me to admit that of all others similarly situated, who might at any time think proper to return and claim payment.

From my first arrival at Wellington, the chiefs Moturoa, Wairarapa and others, members of the Ngatiawa tribe, who disputed the sale of that place to the Company, constantly told me that they should remain there until they obtained payment, and then go to Taranaki, which they had left ten years before, and claim payment for that place also.

I invariably discouraged them from taking a step which appeared to me so unfair and unjust; and I was much pleased to find that not one of them appeared at my Court to assert any claim; although they had full notice of my intended visit to Taranaki to investigate the claim there; and some of their people, and Wairarapa's son, travelled with me the whole journey.

If, however, the claim of those who had returned since the purchase had been once admitted, no doubt all the others would have immediately claimed payment, and my enquiry would have been almost interminable. * * *

On the following Saturday I delivered my judgment, to which I would call your Excellency's particular attention, as showing that every possible care was taken therein to avoid unnecessary excitement amongst the natives, and that every human effort was made on my part, consistently with the circumstances of the case, to preserve a good understanding between the two races.

It appears from the evidence that—pending the negotiation for the purchase—the natives pressed Barrett for some double-barrelled guns; but finding that there were none on board the vessel, they at length accepted the offered payment without them, and executed the deed. Barrett still, however, promised that, at some future period, he would procure them a case of double-barrelled guns. I considered it unsafe at the time to give them the guns, or their value, in consequence of their position with the Waikato, which is fully explained in a subsequent part of this report.

Under these circumstances, I called upon the principal Agent of the Company to place at my disposal such a sum of money as I might value the guns at, to be disposed of as your Excellency might decide for the benefit of the natives; with which request he immediately complied, as will appear by his letter on this subject, a copy of which is herewith enclosed.

I valued the case of guns at £200, and in my Despatch (under date the 12th June, 1844) before referred to, I had the honor to recommend to your Excellency the manner in which, in my opinion, that sum might be disposed of most advantageously for the benefit of the natives.

I have not seen any land claimed by the Company that can be spared from the Aborigines, so little interfering with, or likely to injure, their interests, as the block in question.

By the enclosed return from the resident Agent of the New Zealand Company, your Excellency will observe that the natives had then only 121 acres in cultivation in the whole block of 60,000 acres, many of which were commenced long after the sale, yet in order to avoid, as far as possible, the cause of any misunderstanding between the two races, I have carefully reserved all these cultivations, their pas, and burying-grounds, in addition to the 6,000 acres to which they are entitled as native reserves.

Ample provision has thus been made for the natives in the reservation of land, more than sufficient for their wants.

The block originally claimed by the New Zealand Company was two miles more in length, and two miles more in breadth, than that shown in the plan forming Enclosure No. 9 of this Report; and was thus reduced by the principal Agent of the New Zealand Company after our arrival at New Plymouth,—leaving another immense block of the very best and most available land immediately adjoining that of the Company, for the natives.

This map will show your Excellency where the native reserves in the suburban sections have been chosen; none, however, have been made for them in the rural sections, although 159 out of the 500 sections have been already selected by the Company's purchasers; owing to the absence of any authorised agent to select for the natives. As this might probably inflict an injustice on the natives by depriving them of their one choice in ten, I addressed the resident Agent on the subject, in a letter, of which I enclose a copy. The condition I have therein insisted upon with regard to the future selection of unchosen native reserves, will form a part of my present award.