

paramount authority in the sale of land; such a power in short as Mr. Fortescue describes—"one distinct from the right of property, to assent to or forbid the sale of any land belonging to the tribe." Various names have been given to this right. It is called by the Bishop of New Zealand and some of his clergy a "seigniorial right": by others a "manorial right": by others a "feudal right." I wish to show Your Grace, that the universal exercise of any right of the sort is by no means admitted or even understood by persons extremely well qualified to form an opinion.

23. Mr. Busby says: "I have read much of "Manorial" and "Seigniorial Right," of "Tribal Right," and even of "Feudal Right," in relation to the Maori tenure of land. Persons use these expressions with ideas more or less distinct attached to them, taking it for granted that corresponding ideas exist in the minds of the Maoris. I question whether many of the Maoris are better informed on such points now than they were at the time of the Treaty of Waitangi; but it is very certain that at that time no Maori entertained the idea of a right existing in one party which implied an obligation upon all other parties to respect it. No one conceived the idea of authority carrying with it the corresponding obligation of obedience. Such rights and obligations are the creation of Law, and cannot subsist without it. The Maori had no law but the law of the strongest..... There are ideas attached to the possession of land which may well be called instinctive: and great injustice may be done to individuals who hold such a possession, if they are prevented from selling it by a supposition that what we call a superior right exists in some other person, that right being nothing more in the minds of the Maoris than the exercise of an arbitrary power by those who have strength and arrogance enough to assume it" (41).

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24. The Rev. Mr. Hamlin says: "I have not been able to discover that any such thing as Manorial Right distinct from ownership in a greater or less degree, has been lodged in the Chief of a District, in the Chief of a Tribe, in the Chief of a Hapu, or in any other person of the Aborigines. And if there is such a thing as *mana o te whenua* [mana of the land] it is a certain invisible indescribable something to which the European may attach a meaning wholly at variance with that which a Native may affix to it. Manorial Rights, as Englishmen understand them, are foreign to the Natives, and if they have any such ideas they must have acquired them from Europeans" (42).

25. Archdeacon Hadfield says: "The notes I have now read imply that the Chiefs have power over some portion of the land. Fifteen years ago I set it down as a questionable right or power: I view it in the same light now. I limit such right of Chiefs to deal with lands obtained by conquest only, and do not consider that it extends to any land which has become vested in the tribe by long possession" (43).

26. Mr. Buddle says: "It is by no means clear that any such custom as 'Manorial Right' ever obtained among the Native Tribes; was ever claimed by the Chiefs or ceded by the people originally. A man took possession of territory by the strength of his arm, and rested his claim on his conquests. 'By this,' he would say, stretching out his arm, 'I obtained it.'.....Manorial rights are imaginary rights when claimed for New Zealand Chiefs" (44).

27. And I would request your Grace's attention to the following further extracts, on the meaning of the term *mana*, which has become a household word since the insurrection.

"Mana of the Chiefs. This word means authority, power, influence. It was originally applied to persons and their words or acts, not to land. The word has of late been used in reference to land, and now we hear of *te mana o te whenua* (the mana of the land). What distinct idea is attached to it, is difficult to say. The disputed land at the Waitara is claimed by the Maori King party because the King's mana has reached it: '*Kua tae te mana o to matou Kingi ki reira*' (the mana of our King has gone there); and wherever this mana has gone the land is held inalienable without the King's consent. '*Kia mau te mana o te whenua*' (hold fast the mana of the land), is another expression now in frequent use. What does it mean? This is altogether a new application of the term: perhaps it has been adopted in consequence of the Queen's Sovereignty over the islands having been translated as the Queen's mana. But it certainly did not originally mean that which is now claimed for it, viz., a Chief's 'manorial right.' This use of the word was not heard until the Maori King movement originated it" (45).

"The term *mana* in reference to land I have occasionally heard, and have asked the question, '*He aha te mana o te whenua* (what is mana of the land)? and have received this answer, '*Aua hoki, ma te pakeha*' (I don't know, it is the white man). The answer implies that the term as applied to land had its origin in a mistaken conception of the meaning of Native words by Europeans. The term as applied to land is scarcely heard of in some districts" (46).

28. But whatever may be the precise idea which is now entertained under the designation of "Seigniorial right," "Manorial right," or "Feudal right," it is an extraordinary thing that among all the authorities I have quoted, so far as I have seen their opinions made public, it was never mentioned before this war. Surely, in the way it is now claimed by the apologists of Wiremu Kingi, it is in the nature of a sovereign right: and Sir William Martin wrote in 1846: "Every right which exists, whether in one person or in more, is truly a right of property; and there does not in this state of things exist anything which can be correctly likened to a right of sovereignty as understood amongst us." (47).

29. The question really is, was such a right guaranteed to the Chiefs of New Zealand by the Treaty of Waitangi? Mr. Busby, who negotiated the Treaty, absolutely denies it. I do not find that Governor Hobson, who made the Treaty, anywhere admitted it. And the interpretation originally given to the Treaty is clearly shown in the following evidence of Archdeacon Maunsell before the recent Select Committee of the House of Representatives on Waikato Affairs:—

"You recollect the time when the Treaty of Waitangi was entered into between Governor Hobson

(41) Busby,
App. A 11.

(42) Hamlin,
App. A 6.

(43) Hadfield,
App. A 9.

(44) Buddle,
App. A 12.

(45) Buddle,
App. A 12.

(46) Hamlin,
App. A 6.

(47) Sir W. Martin,
App. A 3.