

E—No. 1

# FURTHER PAPERS

RELATIVE TO THE

NATIVE INSURRECTION.

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THE TARANAKI QUESTION

AND

“SEIGNORIAL RIGHT,”

*(In continuation of Papers presented October, 1860.)*

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PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY, BY COMMAND OF  
HIS EXCELLENCY.

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CONCLUSIONS ON THE PRESENT ASPECT OF THE SUBJECT.

1. <i>There is reason to doubt whether "Seignorial Right" had any existence prior to the Treaty of Waitangi.</i>							
2. <i>The proprietary rights of Chiefs, Families, and People were recognised by the Treaty, but no right distinct from that of property.</i>							
3. <i>No "Seignorial right" has ever been admitted in the Ngatiawa throughout successive Acts and Decisions of the Governors of New Zealand.</i>							
4. <i>Governor Hobson recognised the Waikato Title to the Taranaki District, and acquired it by a valid cession from the Waikato Chiefs in 1842.</i>							
5. <i>Governor FitzRoy in 1844 admitted separate and individual rights of ownership in the Ngatiawa, and promised to purchase them when offered for sale.</i>							
6. <i>Governor Sir George Grey in 1847 did not even admit a Tribal Title in the Ngatiawa, and determined to resume the land for the Crown, after Reserves made.</i>							
7. <i>The right of alienation in the various Hapus and Sub-divisions of the Ngatiawa has been repeatedly recognised, and has been the basis of every cession of Territory.</i>							
8. <i>The Governor's acceptance of the Waitara Block was in accordance with precedents established by former Governors.</i>							
9. <i>The rights of any Proprietors not parties to the Sale have been expressly saved, and any such Proprietors may sell or retain their land.</i>							
10. <i>Wiremu Kingi's insurrection is not a legitimate resistance to an attempt to oust him from his land, but is a wrongful result of the Land League.</i>							
11. <i>The recognition of a right in any Chief distinct from a right of property in the soil, to control sales, would be unjust and impolitic.</i>							
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## No. 1.

COPY OF A DESPATCH FROM MR. CHICHESTER FORTESCUE TO GOVERNOR GORE  
BROWNE, C.B.

Downing Street,  
27th August, 1860.

No. 55.

SIR,—

I have to acknowledge the receipt of your Despatch No. 49, of the 25th May last, enclosing various Addresses presented to you by Provincial Councils and other Bodies, approving of your conduct in the matter of the Taranaki Land Question, and of the measures which you have taken to maintain the Queen's authority in New Zealand; also, a letter from the Bishop of New Zealand to the Acting Colonial Secretary, by way of Protest against the statements contained in one of those Addresses, with a Memorandum by your Ministers upon that letter.

I see no reason, as at present advised, to question the justice or propriety of your proceedings towards the Chief William King; and the course which you have pursued under very anxious and difficult circumstances, aggravated, I fear, by the exasperated feelings of some of the settlers against the Native Race on the one hand, and by an intemperate advocacy of Native claims on the other, must command the approval of Her Majesty's Government.

I am happy to find that you receive so cordial a support from your Responsible Advisers, and to acknowledge the excellent spirit which characterises the two able Memoranda on the Taranaki Native Question, signed by Mr. Richmond, which you have communicated to me.

I should wish you, however, to furnish me with a full report upon the important question which that case has brought prominently forward; the question, namely, of an alleged right, distinct from one of property, existing in the Chief of a Tribe to assent to or forbid the sale of any land belonging to members of the tribe, in cases where all the owners are willing to sell; and how far such a right has been or ought to be recognised by the Crown.

I need hardly tell you that it is the full intention and earnest desire of Her Majesty's Government (as it has been of their predecessors), that the Treaty of Waitangi shall be faithfully observed, both in its letter and its spirit. But without more information than the Secretary of State possesses upon this point, it would not appear that the claim in question is consistent with the cession by the New Zealand Chiefs to the Queen, of their respective rights of sovereignty under Article 1, or of pre-emption under Article 2.

Whether there are reasons apart from the Treaty in favor generally of the recognition of such a right, and whether, as appears to be the truth, they do not justify the claims of William King upon the present occasion, are further questions upon which you will be good enough to give me your own views, and all the information in your power.

I have, &c.,

C. FORTESCUE,

In the absence of the Secretary of State.

Governor Gore Browne, C.B.,  
&c., &c., &c.



# THE GOVERNOR'S DESPATCH ON "SEIGNORIAL RIGHT."

GOVERNOR'S DESPATCH.  
4th Dec., 1860.

No. 2.

COPY OF A DISPATCH FROM GOVERNOR GORE BROWNE TO HIS GRACE THE DUKE OF  
NEWCASTLE.

No. 126.

Government House,  
Auckland, 4th December, 1860.

MY LORD DUKE,

1. I have the honour to acknowledge and beg to express my best thanks for Mr. Chichester Fortescue's Despatch No. 55, of the 27th August last.

2. I am desired in that Despatch to furnish a full Report to Your Grace upon "the question of an alleged right, distinct from one of property, existing in the Chief of a tribe, to assent to or forbid the sale of any land belonging to members of the tribe, in cases where all the owners are willing to sell, and how far such a right has been, or ought to be recognised by the Crown." And I am also desired to give you my own views, and all the information in my power, on "the further questions whether there are reasons, apart from the Treaty of Waitangi, in favour generally of the recognition of such a right, and whether they justify the claims of Wiremu Kingi upon the present occasion."

3. I am afraid that in the endeavour to give an answer to these questions, I shall have to ask for Your Grace's attention at much length. They involve, in reality, an examination of the Native Tenure of land generally, and specially of the Ngatiawa title at Taranaki: of the status of the Chiefs before and since the establishment of British Sovereignty: of the principles which have guided successive Governors of New Zealand on the Taranaki question: of the proceedings immediately connected with the purchase at Waitara last year: of the misrepresentations that have been spread abroad respecting those proceedings: of the relation between Wiremu Kingi's insurrection and the Native King Movement and Land League: and lastly, of the present aspect of the subject with reference to the special questions raised by Your Grace.

4. In submitting my own opinions on these subjects, gathered as they are from events that have occurred during a period of more than twenty years, I have desired to say nothing which was not either within my own knowledge, or supported by some reliable authority. In order that these authorities should be placed before you in a readable shape, I have caused them to be printed separately as an Appendix to this Despatch, with distinct references to the publication in which each can be found.

## I.—THE NATIVE TENURE.

5. In order that Your Grace should see how various are the views which have been entertained on the subject of the Native title to land, I have collected all that I could find to be deserving of attention; and I submit for your perusal extracts from the opinions of

1. The Bishop of New Zealand.
2. Sir William Martin, late Chief Justice.
3. Mr. Busby, formerly British Resident.
4. Archdeacon Maunsell.
5. Mr. Clarke, formerly Chief Protector of Aborigines.
6. The Native Board of 1856, comprising the then late and Acting Native Secretaries, and the Surveyor-General.
7. Mr. Spain, formerly H. M. Land Claims Commissioner.
8. Rev. Mr. Hamlin, Church Missionary.
9. Mr. Swainson, late Attorney-General.
10. Archdeacon Hadfield.
11. Mr. Shortland, formerly a Protector of Aborigines.
12. Mr. White, for the last ten years Interpreter in the Native Office.
13. Rev. Mr. Buddle, Superintendent of the Wesleyan Mission.
14. Mr. McLean, Chief Commissioner for the Purchase of Native Lands.
15. Rev. J. A. Wilson, Church Missionary.

6. Of the eighteen persons here named, nine were in this country before the establishment of British Sovereignty, and have maintained to the present time the closest relations with the Native race; five more have been in New Zealand for between 18 and 20 years; and the other four, who are no longer in the Colony, were all from their official position necessarily called upon to form a judgment on the question of Native Tenure.

7. The result of all these enquiries has certainly not been to present a very clear idea of what Native Title is, and still less of what it is not. Chief Justice Arney said in the Legislative Council the other day, "I have found much inconsistency and contradiction but no novelty, and have derived this consolation, namely, of reflecting that little as I know of the Native Title, of the (so called) Maori law of real property, the generality of people, even of the learned, the *periti*, know little more (1)."

8. At the same time, I think there is no reason to doubt that, notwithstanding the variety of rules in different localities and among different tribes, the title to land among the Natives of this country

(1) Chief Justice,  
App. E. 1.

GOVERNOR'S DESPATCH.  
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- was a tribal rather than an individual title. The individual right to possess whatever portion of land was subduced by the labour of each member of the tribe, was undoubtedly recognised and transmitted by descent from generation to generation: but the right to alienate land so held was one the exercise of which was restricted by the obvious necessity of maintaining the unity of the tribe, of securing its right to service from each member, and of preserving its land from going into the hands of strangers (2). It is doubtful, indeed, whether the right to alienate land in perpetuity was well understood among the Natives before the European settlement of the country (3).
9. I now beg to submit to Your Grace a few of the opinions which have been given on both the tribal title and individual right.—“Generally there is no such thing as an individual claim, clear and independent of the tribal right (4). Each Native has a right in common with the whole tribe over the disposal of the land of the tribe, and has an individual right to such portions as he or his parents may have regularly used for cultivations, &c. This individual claim does not amount to a right of disposal to Europeans, as a general rule” (5). \* \* “The land does not, generally speaking, belong to one individual, but chiefly to the tribe” (6). \* \* “Land is held by them either by the whole tribe or by some family of it, or sometimes by an individual member of a tribe” (7). \* \* “It may be observed that scarcely any of the land of the aborigines of this country can be said to be the exclusive property of one individual, though the descent through which a party can trace their claim to the land they hold is by a single person. This person can sell if he likes without the consent of his party: the party selling without his consent would be a *hoko tahae* (dishonest sale)..... This absence of the individualization of property seems rather attributable to the state of the country than to any defect in the line of descent. The individualization of the descent is clearly recognised” (8). \* \* “The lands of a Tribe were portioned out according to the number of families of which it consisted, and were claimed by each family as its own; nor did any one meddle with it or occupy the land of another family without express permission” (9). \* \* “For the most part, the boundaries of property are well defined. In the immediate neighbourhood of such pas as are at present inhabited, land is often minutely subdivided, each separate piece belonging to some one person..... There might be several conflicting claimants of the same land; but however the Natives might be divided among themselves as to the validity of the several claims, still no man doubted that there was in every case a right of property subsisting in *some one* of the claimants” (10). \* \* “In this way families hold and cultivate their ground, enlarging their individual cultivations from time to time, thus establishing an indisputable title to such lands as their special and particular property..... All or any of these acts give an undeniable right to special property in land heretofore considered common” (11). \* \* “The Chiefs are the principal land holders. Every individual, however, so far as I have been able to learn, has his own estate which he has inherited from his branch of the family, and which he cultivates as he pleases” (12). \* \* “The head teacher of the tribe is about to be admitted to holy orders, which led me to ask whether he had a claim to any land which might be available for his maintenance. I was immediately informed of the exact spot, and of the grounds of his title..... Let the [Ngatiawa] tribe be once assembled in undisputed possession of its ancient territory, and let each freeholder's claim be duly investigated, and a Crown title granted to each as an individual proprietor, with full power to dispose of his land by sale, lease, or bequest..... I desire to see each Native land owner secured by a Crown Grant for his own individual property..... Every one of these 340 men [Ngatiawas] believes himself to be a proprietor of land in this district” (13). \* \* “These instances appear sufficient to prove that, according to the primitive usages originally existing in this country, such a law as positive personal right to land was acknowledged” (14). And, lastly, I beg to refer to extracts of a paper, known to have been written by one of the Interpreters in the Native Office, containing instances of sales effected by Natives at various times without reference to the Chiefs (14A).
10. But whatever may be the true theory of Native Tenure, as a theory, there is nothing more certain than that there exist among the Native Tribes themselves no fixed rules by which the practice of the Government in its dealings with them for land could be guided. Mr. McLean, whose experience extends over more than twenty years, and who has bought more than twenty millions of acres for the Crown, in his evidence before the House of Representatives last August, says (I give the substance of his answers)—“The tribal right varies so much in different parts of the country, I should like to know what particular part of the country is referred to; as the custom which prevails in one place does not in another. There are very wide exceptions to any general rule, and the exception is wider than the rule. In some tribes, the different *hapus* (families) must be consulted, in others, the Chiefs. The various *hapus* which compose a tribe most frequently have the right of disposal, but not always. You must discover the rights of the parties by enquiry of the people in the district where the land is situate and elsewhere. The Natives have no fixed rule. The custom varies in different districts. In the Ngatiawa tribe, a family of three or four people has been regarded as empowered to dispose of its common property: they have enjoyed this right for the last eighteen years” (15).
11. Again, Mr. Busby, formerly British resident, says: “It is certain that the Maoris had no fixed rule to guide them in the disposal of their land” (16); and the Rev. Mr. Hamlin: “All these acknowledged Native Rights were by Might often set aside, and arbitrary power ruled..... Tribal rights, or any uniform course of action or general plan for their guidance in the management of their lands or other affairs, I have not found to exist among the Natives of this country; nor do I believe they have any such plan or general rule. Each party or tribe seems to have been guided by existing circumstances in the management of their affairs” (17).
12. But above all I beg Your Grace's attention to the speech delivered by Mr. McLean to the Conference of Chiefs at Kohimarama, and contradicted by none, in which he says, “No fixed law on the subject [of their lands] could be said to exist, except the law of Might. It was true that various customs relating to Native Tenure existed; but these were not in any way permanent; and the

endless complications of such customs were eventually resolved into the law of might ..... The Native has no fixed law to regulate the rights of property. The European has a law to guide him on this subject—the Native has no well-defined law. .... Powerful tribes took possession of land by driving off or exterminating the original inhabitants; these in their turn drove off other less powerful tribes. The conqueror enjoyed the property while he had the power of keeping it" (18).

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13. And in order to illustrate the difficulties in the way of laying down fixed rules, I beg leave to give Your Grace a few instances of conflicting opinions:—

There is reason to think that an independent right to alienate land without the consent of the Tribe is unknown in New Zealand (19).

In the Bay of Islands, where land purchases were first made, the Native of every degree of rank sold his land without reference to any other authority (20).

The rights of ownership, whether in one or many joint proprietors, were not alienable without the consent of the tribe (19A).

Often there will be only one main proprietor or *take* [source of title]; but if he be not a Chief of rank, the head man will take upon him to dispose of the spot. Often, and more frequently, there will be several *take*, and one of them will sell without consulting the others (21).

Over the uncultivated portions of territory held by a Tribe in common, every individual member has the right of fishing and shooting (22).

The lands of a Tribe do not form one unbroken district, over which all members of the Tribe may wander. On the contrary, they are divided into a number of districts appertaining to the several sub-tribes (23).

Ordinary freemen (*tutua*) cannot alienate that and, which is absolutely their own for all practical purposes, but is not to be disposed of in a manner contrary to the supposed interests of the tribe (24).

When any member of a Tribe cultivates a portion of the common waste, he acquires an individual right to what he has subdued by his labour; and in case of a sale, he is recognised as the sole proprietor (25).

A Tribe never ceases to maintain their title to the lands of their fathers (26).

The title or claim to land by Tribes existed no longer than it could be defended from other Tribes (27).

The right of each Tribe to land extends over the whole of the tribal territory, and entirely precludes the right of any other Tribe over it (28).

No Tribe has, in all instances, a well-defined boundary to its land as against adjoining Tribes; and the members of several other Tribes are likely to have claims within its limits (29).

Conquest, unless followed by possession, gives no title. So distinctly is this principle recognized, that I have no doubt that any attempt to support and maintain the validity of titles derived from conquest only, would be met by a most determined resistance, even if attempted by Her Majesty's Government (30).

Conquest alienates the land, but it has its quibbles. Conquest and occupation give a valid title; conquest without occupation is doubtful (31).

The New Zealanders do not forfeit their territorial rights by being carried into captivity or becoming captives. .... I have known slaves tenaciously maintaining their territorial rights while in a state of captivity (32).

The question turns upon whether slaves taken in war, and Natives driven away and prevented by fear of their conquerors from returning, forfeit their claims to land owned by them previous to such conquest. And I most unhesitatingly affirm that all the information I have been able to collect as to Native customs throughout the length and breadth of this land, has led me to believe and declare the forfeiture of such right by Aborigines so situated. In fact, I have always understood that this was a Native custom fully established and recognised, and I do not recollect ever to have heard it questioned till [now] (33).

14. The conflicting authorities here quoted furnish a satisfactory answer to an accusation constantly preferred against the Native Department, that in extinguishing Native Title they are guided by no fixed rules, but have, with apparent caprice, dealt with Chiefs in one place and with proprietors in another. No one of my predecessors has ventured to lay down any precise theory on the subject of Native Tenure, nor could I pretend to do so; on the contrary, I have endeavoured to follow in the path traced out by them, and have studied to preserve as much consistency and uniformity of action as circumstances will permit in all dealings with Native Proprietors. I now propose to prove to Your Grace that my dealings with the Ngatiawa Tribe have formed no exception to this rule,

(18) McLean,  
App. A. 1.

(19) Bishop of N. Z.,  
App. A. 2.

(19A) *Ibid.*  
(20) Hamlin,  
App. A. 6.

(21) Maunsell,  
App. A. 4.

(22) Swainson,  
App. A. 10.

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

(24) Hadfield,  
App. A. 9.

(25) Swainson,  
App. A. 10.

(26) Clarke, App. A. 8  
(27) Board, App. A. 5

(28) Hadfield,  
App. A. 9.

(29) Board, App. A. 5

(30) Clarke, App. A. 8  
(31) Hamlin, App. A. 6

(32) Clarke, App. A. 8

(33) Spain, App. A. 7.

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## II.—THE NGATIAWA TITLE AT TARANAKI.

15. In order rightly to understand the position which the Governors of New Zealand have uniformly assumed in reference to the title of the Ngatiawa at Taranaki, it is necessary to remember that they were a conquered, broken, and scattered tribe, and that the fairest and most fertile country in New Zealand, their ancient inheritance, was a deserted wilderness at the time of the European colonization.

16. About 30 years ago the great Chief Te Rauparaha persuaded a large force of the Ngatiawa, Ngatiraukawa, and other tribes, to assist him in his wars with the original inhabitants of both shores of Cook's Strait. The Waikato Natives, taking advantage of their absence, suddenly invaded the Taranaki district, and took Pukerangiora, a large pah on the Waitara river (the same pah which there is now reason to think the insurgents intend to fortify and try to hold); capturing or destroying nearly 2000 of the inhabitants. They then attacked Ngamotu, near the present site of New Plymouth, but without success, and returned to their own country. They never repeated their attack, though they frequently threatened to do so: and the remnant of the Ngatiawa tribe, finding themselves too weak to oppose effectually any renewed invasion from Waikato while their principal warriors were absent with Rauparaha, migrated with their women and children, and rejoined their relatives at Otaki, Port Nicholson, Queen Charlotte Sound, and other places: where they took possession of and cultivated the soil, and where their title was afterwards admitted, by reason of such occupation, against Rauparaha and others who claimed the land by right of conquest (34).

17. Thus the Ngatiawa tribe had either voluntarily migrated on conquering expeditions to other lands, or had left in dread of the Waikatos, or had been driven by force out of their ancient territory, and had completely abandoned it. When the first white men went there, there were only 60 people living in the whole district north of the Sugar Loaf Islands, and for a long time subsequent to 1840 they had not much more than 100 acres in cultivation (35). In the expressive language of two of their Chiefs, in a letter to the people of Taranaki, "All was quite deserted; the land, the sea, the streams and lakes, the forests, the rocks, were deserted; the food, the property, the work were deserted; the dead and the sick were deserted; the land marks were deserted." (36)

18. Now when the British Sovereignty was proclaimed in New Zealand, we found (notwithstanding the desolating wars which had taken place for years throughout the islands) certain great tribes in the full possession of their tribal territories. Thus the Ngapuhi in the north, and the Waikato and Ngatimaniapoto in the centre and west coast, held their ancient inheritance still: and in our dealings with them since the Treaty of Waitangi we have generally recognised not alone their tribal right in cases of sale, but the influence of their principal men in assenting to or preventing sales. No Government for instance would have thought of making a purchase at Ngapuhi, or at Waikato, in the teeth of the veto of great Chiefs such as Tamati Waka Nene and Potatau Te Wherowhero. On the other hand there were a few tribes which had been so broken and scattered by conquest and otherwise, that with reference to them the British Government has from the first neither recognised the tribal right in case of alienation, nor permitted the exercise of a veto on such alienation by the chiefs. Of these was the Ngatiawa of Taranaki.

19. I do not propose to discuss the question whether the Government of this Colony were right or wrong in denying to the Ngatiawa tribe at Taranaki the status which they would have recognised in unconquered tribes. It will be sufficient for me to show that they have done so in successive acts and decisions since the foundation of the Colony, and that in the course I have pursued, I have simply adhered to the principles and policy of my predecessors, Governor Hobson, Governor FitzRoy, and Governor Sir George Grey. I shall presently establish this, I cannot doubt, to the perfect satisfaction of Your Grace.

## III.—STATUS OF THE CHIEFS.

20. There can hardly be a doubt that, prior to the establishment of British Sovereignty, the power of a Chief in his tribe depended as much on his courage and skill in war, and his ability in council, as on rank by birth, or on territorial possessions. It often happened that the most powerful Chief was a small landholder. Their law was the right of the strong arm. Mr. Busby, writing in 1837 to the Governor of New South Wales, tells us what kind of rank the Chiefs had in those days:—"To those unacquainted with the status of a Native Chief, it may appear improbable that he would give up his own proper rank and authority. But in truth the New Zealand Chief has neither rank nor authority but what every person above the condition of a slave, and indeed the most of them, may despise or resist with impunity" (37).

21. But the kind of authority which the Chiefs exercised in reference to land may be gathered from the following extracts from the authorities whom I have already quoted:—

Sir William Martin said in 1846: "There is no paramount or controlling power, either in the tribe or in the sub-tribe, to restrain or to direct the exercise of the right of appropriation [of land]. Each family or freeman may use and appropriate without leave of any" (38).

The Board of 1856 said: "The Chiefs exercise an influence in the disposal of land, but have only an individual claim like the rest of the people to particular portions" (39).

Archdeacon Hadfield in 1845 said: "The Chief of the tribe, since he has no absolute right over the territory of the various *hapu*, nor over the lands of individual freemen of his own *hapu*, cannot sell any lands but his own, or those belonging to the tribe, which are undoubtedly waste lands" (40).

22. I take the preceding opinions, because they were given years ago, and have nothing to do with the present state of things. Since the insurrection which has unhappily broken out at Taranaki, a great effort has been made by many persons to claim for all the Chiefs, and in all circumstances, a

(34) *Com. Spain*,  
*Procc. Clarke*,  
*Gov. FitzRoy*,  
*In Parl. Pap.*,  
12 June 1845, &  
8 April 1846.

(35) *Ibid.*

(36) *Ihaka & Tiranrau*  
*App. D 4.*

(37) *Busby*,  
*App. E 11.*

(38) *Sir W. Martin*  
*App. A 3.*

(39) *Board*,  
*App. A 5.*

(40) *Hadfield*,  
*App. A 9.*

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).

GOVERNOR'S DESPATCH,  
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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.

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and the Northern Chiefs: did you assist the Government in any way to obtain the consent of the Waikato Chiefs to that Treaty?—I did: I induced the Waikato people to consent to it.

Were you aware as to what was their understanding, at the time, of their cession of sovereignty to the Queen, as contained in the Treaty?—That they retained the rights over their lands, but that the Queen had power to make laws.

Do you know what are the views now entertained by the Native King party with reference to the meaning of that Treaty?—I do not.

Are you aware whether any of the Chiefs who agreed to that Treaty are now connected with the King movement?—I am not.

Do you recollect a sort of state visit made by the old King (Potatau) to Lower Waikato some time in the beginning of the present year?—I do.

Were you present at an Assembly held at Waiuku on that occasion?—I was.

Did you deliver an address to that Assembly in which you expressed your interpretation of the meaning of the terms of the Treaty which relate to their lands; and if so, will you state to the Committee what you then said to the Natives on that subject?—I said that they ought to allow each man to do what he liked with his own land, that their right to their land was secured to them by the Treaty of Waitangi, and that no king ever interferes with his people when they wish to sell land." (47A)

(47A) Maunsell,  
Sess. Pap. Gen.  
Ass. F—No. 2

#### IV.—ACTS AND DECISIONS OF FORMER GOVERNORS OF NEW ZEALAND.

30. I beg now to call Your Grace's attention to the uniform action that has been taken by successive Governors of New Zealand in the matter of the Taranaki Land Question, since the establishment of the Queen's Sovereignty in these Islands.

##### *i. Proceedings of Governor Hobson.*

31. I have described the condition to which the Ngatiawa tribe had been reduced by successive conquests and migrations, and the abject state of the remnant which still remained at Taranaki in 1840. It was in this state of things that Governor Hobson made his purchase of the Taranaki district from the great Waikato Chief Te Wherowhero, who had some time previously accompanied him to Kapiti. Writing to the Secretary of State in December 1841, the Governor gave the following description of the transaction, and of the position which Te Wherowhero assumed in it:—

"Te Wherowhero claims the country as his by right of conquest, and insists on it that the remnant of the Ngatiawas are slaves; that they only live at Taranaki by sufferance, and that they had no right whatsoever to sell the land without his consent. In illustration of his argument, he placed a heavy ruler on some light papers, saying, 'Now so long as I choose to keep this weight here, the papers remain quiet, but if I remove it, the wind immediately blows them away; so it is with the people of Taranaki'; alluding to his power to drive them off" (48.)

(48) Gov. Hobson,  
App. B. 1.

32. The Deed of Sale was executed in January 1842: the boundaries included all the country from Tongapourutu, north of the Mokau river, to the Ngatiruanui country south of the Sugar Loaves, comprising the whole of the Waitara district. It does not appear that Governor Hobson obtained any formal cession of their rights from the Ngatimaniapoto Chiefs, who with Te Wherowhero were the joint conquerors of the Ngatiawa; but Tamati Ngapora, Te Wherowhero's brother, told me not long since that the Ngatimaniapoto got the whole payment, and that his brother was very angry and said he would have been satisfied with even a blanket as a token of recognition. During his visit to the Ngatimaniapoto Chiefs at Kawhia, in April 1842, Governor Hobson acquainted them with his purchase, and gave them permission to occupy a part of the land within the boundary, distinctly warning them at the same time that they were not to interfere with the European Settlement at New Plymouth, and desiring the Resident Magistrate there to point out to them the English boundary. (49.)

(49) Gov. Hobson,  
App. B. 3.

33. In this transaction it is clear that Governor Hobson in no way admitted the right of the Ngatiawa tribe to the country they had abandoned, nor any right of chieftainship, nor any right on their part to forbid the sale: but on the contrary recognised the European settlement, and claimed to have extinguished the aboriginal title by his purchase from the Waikatos.

34. In order clearly to ascertain the completeness of that purchase, it will be necessary to examine the evidence of the Waikato title by conquest. I am aware that it has been held to be a rule in Native Tenure that conquest without occupation gives no sufficient title. The doctrine has been laid down very distinctly and decisively, though it is held to be doubtful on good authority; but, for the present purpose, it is not necessary that I should controvert it. The question, then, is narrowed to this, whether or not the Waikatos retained possession or occupation of Taranaki after their conquest.

35. Though the doctrine has been broadly laid down as above stated, it is nowhere said what degree of possession and occupation is sufficient to establish a complete title. In the case of Taranaki, Chief Protector Clarke in 1843, while admitting that the title of the Waikato conquerors was good so far as they had taken possession, held that the chief right was still vested in the Ngatiawa tribe as the original inhabitants (50); but in the case of Wairau in the Middle Island, just after the massacre in the same year, he held that the title lay wholly in Raupahara and the Ngatitaoa tribe as conquerors of the district (51), though, so far from occupying the country, they were (both before and after the massacre) settled on the north shore of Cook's Straits, and had only an insignificant cultivation in Cloudy Bay. Thus, in one case, the principal right was said to remain with the

(50) Clarke,  
App. A. 8.,  
(51) Clarke, Parl. Pap.

conquered tribe which had wholly abandoned its territory, while, in the other, it was said to vest in the conquerors who had never resided in the country they had subdued.

36. I willingly admit that the degree of occupation of Taranaki retained by the Waikatos has been much contested. It is barely recognized by some authorities, and denied by another (52). On the other hand the weight of testimony is decidedly in favour of their possession and occupation. Chief Protector Clarke and Commissioner Spain both admit it (53): and the aspect of the question is clearly shown by Chief Commissioner McLean in his speeches to the Waikato Chiefs at the Ngaruahia meeting this year, as well as in his speeches at the Kohimarama Conference, and in his evidence before the House of Representatives:—

"You also [Waikato] sold it to us in all its boundaries; therefore, I say, that land has been fully ceded and given into our hands in open daylight..... Waikato has taken up arms to hold that which their own Chiefs gave to the Europeans; spreading it forth for their acceptance in the light of day and under the shining sun of heaven..... Had it been territory not previously touched or broken into, it would have been different; but this was not the case..... The land has been consumed; it cannot return to its original state, any more than the ashes of a dead fire can be rekindled. This statement is not a new one; it was made by me [here] at Waikato, and the old Chief who has just died [Potatau] fully admitted its truth. Referring to it he said, 'It is correct.'..... Now, in accordance with your customs, this land was completely forfeited and gone. Of the men who once possessed it, some had been brought as slaves to Waikato; some had gone to Kapiiti. It was a complete abandonment of a conquered territory (54) \* \* \* The Waikato title to Taranaki was universally admitted by the Natives; at the time of the conquest many acts of ownership over the soil had been exercised by them. The land was divided among the conquering Chiefs, the usual custom of putting up flags and posts to mark the boundaries of the portions claimed by each Chief had been gone through. Any occupation of the land by the Ngatiawa at that period was entirely out of the question, but those Natives who were released from slavery from time to time were permitted by Waikato to occupy; but those who had fled to the South were not allowed to return, and they were distinctly warned that if a return were attempted it would be the cause for fresh war against Ngatiawa. The Waikato right was thus established as a right of conquest, and was fully admitted by the Ngatiawa themselves; who, on each occasion when they sold a portion of land at Taranaki, sent a part of the payment to Waikato as an acknowledgment of conquest or of the right of *mana* possessed by the Waikato Chiefs as their conquerors. In this view of the question it is quite evident that the Ngatiawa title had been superseded by the right of the conquerors (55)."

37. But the most conclusive evidence is furnished by the Waikato Chiefs themselves, so long ago as 1844. When Mr. Protector Forsaith was sent down to Taranaki by Governor Fitzroy, he had interviews on his way with the Waikato and Ngatimaniapoto Chiefs, who expressly asserted their title, and desired him to warn the Ngatiawas of it. "You are now going to Taranaki; listen to our parting words. That land is ours. We claim it by right of conquest, and some part of it by possession. We hold the late Governor's permission to locate any of the lands at Taranaki provided we do not go south of Urenui. Go and tell the Ngatiawas that the Waikato Chiefs remind them that the land is theirs, and advise them to settle their dispute with the Europeans, or the Waikatos will settle it for them (56)."

38. Another important proof of the validity of the Waikato title is afforded by the fact that when Wiremu Kingi finally decided to return to Waitara in 1848, he did so by the express permission of Te Whero Whero; thus recognizing the right of the latter to the district as conqueror, and illustrating a practice not infrequent among the New Zealanders as a means of reconciling feuds and securing quiet occupation of land about which the Tribes concerned might have been at war (57).

39. And I beg to add to this the further testimony, given to myself by the Waikato Chiefs Tamati Ngapora (half brother to Potatau) and Te Katipa, who absolutely maintain to this day the right of Waikato to sell Taranaki to Governor Hobson; and the evidence of the Rev. Mr. Buddle and Rev. Mr. Whitely, Missionaries who have resided at Taranaki and have been 20 years in the colony, which has just reached me (57A).

## ii. Award of Commissioner Spain.

40. I need not trouble Your Grace with any account of the troubles which accompanied, as might have been foreseen, the return of the absentees and manumitted captives of the Ngatiawa. From 1841 to 1844 there occurred a series of disputes which kept both races in a state of chronic irritation and excitement. At last, in May, 1844, Mr. Spain, Her Majesty's Commissioner for determining titles to land, held his Court at Taranaki for the investigation of the case.

41. The circumstances of that officer's Award must be too familiar to Your Grace to require any detailed reference to them. Mr. Spain disallowed altogether the claims of the Ngatiawa captives and absentees, and gave judgment for the issue of a grant to the New Zealand Company for 60,000 acres, including the whole of Waitara. This award was reversed by Governor FitzRoy, as will be presently stated; but after careful reconsideration Mr. Spain remained of the same opinion, and formally reiterated the judgment he had given on the spot. In doing so he laid particular stress on the fact that no claim had been asserted on behalf of the absentees, though he afforded every opportunity to the Protector of Aborigines who specially represented the Native interests during the investigation to adduce such evidence, as was admitted by that officer in his address to the Natives: and he called attention to the further important circumstance, that if the Protector had entertained the idea of the Ngatiawa captives having any just or equitable claim to the land, he ought to have brought forward such

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(52) *Clarke, jun.; Gov. FitzRoy, (In Parl. Pap., 1845.)*

*Hadfield, App. E. 14*

(53) *Clarke; Spain's Report; Parl. Pap. April 1846*

(54) *McLean, Speeches; App. C. 1. 2.*

(55) *McLean, Evidence; App. C. 3.*

(56) *Forsaith, Report; App. B. 13.*

(57) *McLean, Speech; App. C. 1.*

(57A) *Buddle, Whitely, App. E. 8.*



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(58) *Spain, Award,  
Clarke, Speech,*  
App. B. 6.

(59) *Ironside,*  
App. B. 7.

(60) *Clarke,  
Forsaith,*  
App. B. 8, 9.

claim and urged its recognition, whereas his speech afforded abundant proof that he then held no such doctrine (58). And in support of this view, Mr. Spain quoted the opinion of the Rev. S. Ironside, a Wesleyan Missionary of acknowledged experience and intimate acquaintance with the Taranaki question, who strongly deprecated any payment whatever being made to the Ngatiawas (59).

42. The Reports of Protectors Clarke and Forsaith, made immediately after delivery of the Commissioner's judgment, in no way impugned his decision or suggested its reversal (60): nevertheless the Governor reversed it, as I now proceed to state.

### iii. *Proceedings of Governor FitzRoy.*

(61) *Wiremu Kingi,*  
App. B. 10.

43. The delivery of Mr. Spain's judgment caused a great excitement among the Natives, and numbers of them appealed at once to the Governor. In particular, Wiremu Kingi, who was on the spot at the time, wrote a letter on the 8th June, the day of the judgment, to which I beg to call Your Grace's attention (61). He there declares that not a single man of the Ngatiawa tribe received payment from the New Zealand Company, but only men of the Puketapu and Ngamotu tribes: This would be false, even if there were any foundation for the distinction attempted to be drawn between the Ngatiawa and the Puketapu and Ngamotu people; but there is no manner of doubt that these were *hapus* or families of the Ngatiawa equally with the Manukorihi branch to which Kingi himself belongs. I shall by and bye have to remark on the significant fact that Wiremu Kingi, though present at the time, asserted no claim whatever before Commissioner Spain.

(62) *Whiteley, Forsaith,  
McLean,*  
App. B. 9, 11, 13.

44. Immediately on receiving the remonstrances of which I have spoken, Governor FitzRoy decided on going himself to Taranaki, and meanwhile sent down Protectors McLean and Forsaith, with the Rev. Mr. Whitely, to prepare his way with the Natives. These gentlemen arrived overland almost simultaneously with the Governor, who held his inquiry at New Plymouth on the 3rd of August, 1844. The Waitara Natives, by that time numbering about 250, were with difficulty persuaded to attend the Governor at all, and only did so on seeing that the Waikato Chief Te Pakaru, whom Mr. Whiteley had brought down to assist in settling the question, instantly complied with the summons. This was a signal mark of the respect with which we are told that Chief was treated by the Ngatiawa people, as one of their conquerors (62).

(63) *Official Report,*  
App. B. 15.

45. I beg leave to request Your Grace's perusal of the report of the proceedings at that enquiry, which was published by authority in the Native language after the manuscript had been corrected in English by Governor FitzRoy himself. The following extracts, however, clearly state the principles on which the Governor proceeded:—"I have no wish to fight," said the Governor. "One great work I have to do, it is this: I will not permit one man to behave ill to another.....My work is this—to carefully settle the question about the land; and I will arrange it thus. I will not consent to the Pakehas being expelled; the matter must be left with me. I will not agree to your molesting the Pakehas, nor will I allow the Pakehas to molest you. I will insist upon quiet being maintained. If you do not listen, I will bring soldiers, that quiet may be kept.....Now this is the Governor's opinion; that all the Natives at Taranaki should go to their teachers, or to the Protector of the District who lives among them, and state the names of their places; and the Protector will write down the names of the owners and their estates, whether belonging to man, woman, or child. *And if such owner agrees to sell his place on reasonable terms, it will be purchased and he will receive payment.* .....Mr. McLean has been left by the Governor as a Protector for you; he will arrange about your lands. Be kind to him, and attentive to what he says; and point out your respective possessions correctly. Do not quarrel; do not say 'All this is mine, all that belongs to me;' but mark it out quietly, and do not encroach on any other person's possession, *but let every man point out his own.* Do you ask why we are thus to take down the names of your places? It is to prevent future mistakes. You have heard that no land will be taken unjustly. If you sell it to the Europeans, well: *but you must be careful each to sell his own property, and then he will receive the payment himself* (63)."

(64) *McLean,*  
App. B. 12

46. Your Grace will observe that in this manifesto Governor FitzRoy, 1st, required that the existing disputes should cease; 2nd, distinctly recognised the individual right to sell; and 3rd, expressly promised to purchase the land of any individuals willing to dispose of their rights.

(65) *McLean,*  
App. B. 11.

47. In order that these rights might be ascertained, forms were prepared of schedules to be filled up by the claimants, and enquiries were at once set on foot among the various sections of the tribe (64). Having so far quieted the prevailing excitement, Governor FitzRoy returned to Auckland, promising to return in two months and make a final settlement of the dispute. The result of these enquiries was not encouraging. At Waitara, Mr. McLean found the Natives still resolved not to sell; and indeed he admits that they did not consider themselves empowered to negotiate without the consent of several absentee Chiefs still residing at Kapiti, who owned the greater portion of the land. (65).

(66) *Forsaith,*  
App. B. 14.

48. In November (1844) the Governor returned as he had promised, to give his final decision. Certain proposals, made jointly by Protector McLean, Protector Forsaith, and the Rev. Mr. Whitely, were submitted to His Excellency and adopted by him as the basis of that decision. In Mr. Forsaith's Report of the transaction dated 23rd November, he distinctly says: "These suggestions have been so far approved by His Excellency that his decision has been based upon the general principles they embody: the modifications required in their practical application to the existing dispute will doubtless be made fully apparent in the more detailed report of Mr. McLean (66)."

49. I beg Your Grace's special attention to the following extracts from those proposals:—  
"Let a block of land be marked out, bounded on the South by the Sugar Loaves, and on the North by the Waiwakaiho River, running back as far as the Company's surveys have been extended, or still further inland if mutually agreeable, which would comprise an area of 7150 acres. \* \* \*  
Let a definite sum be fixed as a fair and equitable price for this block, at a certain rate per acre; from



which deduct the amount of payment which any of the present claimants may have received from the Company: the unpaid resident Natives receiving their proportionate shares, and the residue lodged in trust for the absentees; *who should have notice that unless their claims were preferred and substantiated within a given period (say twelve months) they would be considered forfeited. Such award should be final and absolute.*" (67).

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(67) *Forsaith*,  
App. B. 14.

80. It is then quite clear that in these decisions, as in the previous proceedings of Governor Hobson, neither the Tribal Right of the Ngatiawa, nor any "Seigniorial Right," nor any Chieftain Right to forbid a sale, were recognised by Governor FitzRoy: but that on the contrary he, in accordance with his pledge two months before, admitted the individual right of ownership; which, however, was hardly acknowledged in the proposed block. 7000 acres were to be laid off, whether the absentee claimants were willing to sell or not; a price per acre was to be fixed by the Government, whether the Natives agreed to it or not; and the absentee owners were to come in and prove their claims in 12 months or have them absolutely and finally forfeited. It is material to observe, that Governor FitzRoy professed to admit the rights of the Ngatiawa "in all their integrity": and we have in these decisions conclusive evidence of what he considered those rights to be. It is true that the proposals were specific only as respected the block between the Sugar Loaves and the Waiwakaiho, a river about five miles north of them; but that country was just as much part of the ancient possession of the Ngatiawa as the Waitara, and what was justice in one case would have been justice in the other.

51. I shall presently show that the principle here laid down by Governor FitzRoy in the first Government purchase was exactly followed by Governor Grey: and I beg leave to remark that in allowing Te Teira and his people to sell their own land at Waitara, I did no more at Waitara in 1860, than Governor FitzRoy thought it consistent with the Ngatiawa rights to do at New Plymouth in 1844, and had expressly pledged himself should be done.

#### iv. Proceedings of Governor Sir George Grey.

52. The decision come to by Governor FitzRoy did not result in a cessation of disputes. The Government had to accept a block half the size originally fixed. The Ngatiawa Chief Moturoa, from Wellington, put in a claim to some country which was claimed by another section of the tribe; this section claimed part of the payment which another branch of the tribe was to receive; the claimants flew to arms, and blood was all but shed. A striking account of these occurrences, and of the condition to which the right of chieftainship had been degraded in this broken and scattered tribe, is given by Mr. McLean in his official Report of 17th December, 1844 (68).

(68) *McLean*,  
App. B. 11.  
Parl. Pap. 8, April  
1846, p. 143.

53. Soon afterwards, Wiremu Kingi, who had returned to his place at Waikanae, announced his intention of returning to Waitara with his people, and offered to sell Waikanae to the Government. (69). The proposal was discouraged by the Superintendent of the Southern Division (70), and by the District Protector, who reported that "their claim was of a doubtful character; that the whole of the tribe had not consented to remove, as it was still uncertain whether the Ngatimaniapoto and Waikato would allow them to resume the territories they were many years ago obliged to surrender; and lastly but particularly, that Te Rauparaha desired him not to recommend their claims as valid." (71). The proposal was referred to Governor FitzRoy, who minuted upon it "Read R. F. Oct. 30, 1845," but does not appear to have given any directions upon it. (72.)

(69) *W. Kingi*,  
App. B. 17.

(70) *Richmond*, *Ibid*.

(71) *Kemp*, *Ibid*.

(72) *Gov. FitzRoy*,  
*Ibid*.

54. In the meantime the Governor had, in a memorandum to the Secretary of State, briefly reported his disallowance of Mr. Spain's award (73). The information he gave was not satisfactory to Mr. Gladstone, then Colonial Secretary, who sent out instructions to Governor Grey to endeavour to give effect to the award unless he should have seen reason to believe that its reversal was a wise and just measure (74).

(73) *Gov. FitzRoy*,  
App. B. 16.

55. The Native Insurrection of 1846, in which it is only just to say that Wiremu Kingi bore arms on our side, had interrupted his plans for returning to Waitara: but upon peace being made they were revived, and he accompanied Sir George Grey in the visit which His Excellency paid to New Plymouth in February 1847, with the special object of settling the land question.

(74) *Rt. Hon. W. E. Gladstone*,  
App. B. 18.

56. On the 1st and 2nd March, the Governor held meetings with the Ngatiawa Chiefs, and announced his decision. The principle of it was identical with that adopted by Governor FitzRoy. The following extract from his despatch of the 2nd March 1847, is submitted to Your Grace, in which you will find that Sir George Grey expressly says his plan was "in fulfilment of the promises of his predecessor."

"Upon taking a review of the whole of these circumstances, together with our isolated and weak position in this portion of New Zealand, the only arrangement I thought could be advantageously made was, to acquaint the Natives that I should order, in the first place, that the most ample reserves for their present and future wants should be marked off for the resident Natives, as well as for those who were likely to return to Taranaki; but that the remaining portion of the country, in that district, should be resumed for the Crown, and for the use of the Europeans; that, in the fulfilment of the promises made by my predecessor, the value of the resumed land, in its wild and defenceless state, should be assessed by a Commissioner, and that a Court should then be appointed to inquire into the Native titles to the whole, or portions of the district so resumed; and that those Natives, who established valid claims to any parts of it, should receive the corresponding portions of the payment to which they would become entitled. But very few of the Natives seemed disposed to assent to this arrangement; but they distinctly understood that it was my intention to enforce it (75).

(75) *Grey, Despatch*,  
App. B. 19.

57. And the following extracts from his instructions to Mr. McLean at the same time show the precise mode in which the Governor meant the plan to be carried out:—

"It is proposed to evade, in as far as practicable, the various difficulties which have arisen under these conflicting circumstances, by in the first place reserving to the several tribes who claim land in this district, tracts which will amply suffice for their present and future wants; and 2ndly, resuming

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the remaining portion of the district for the European population, and when the extent of the land so resumed has been ascertained, to determine what price shall be paid to the Natives for it; this amount not to be paid at once, but in annual instalments, extending over a period of three or four years; at the end of which time it may be calculated that the lands reserved for the Natives will have become so valuable as to yield them some income, in addition to the produce raised from those portions of them which they cultivate.

"If possible, the total amount of land resumed for the Europeans should be from 60,000 to 70,000 acres; a grant of this tract of land will then be offered by the Government to the Company.

"The price paid for any portion of land should not, under any circumstances, exceed 1s. 6d. per acre, and the average price should be below this amount. The greatest economy on this subject is necessary.

"This arrangement should be carried out, in the first instance, with those parties who have given their assent to it, including the Natives who have offered a tract of land for sale to the south of the Sugar Loaves.

"Where land without the block awarded by Mr. Spain is now acquired, and required for immediate use by the Company's settlers, sections must be surveyed for them.

"Those Natives who refuse to assent to this arrangement *must distinctly understand that the Government do not admit that they are the true owners of the land they have recently thought proper to occupy.*" (76).

(76) Grey, Instructions,  
App. B. 20.

58. At first the Ngatiawa Chiefs resisted this decision; but shortly afterwards it seems Governor Grey had reason to believe that Wiremu Kingi meant to submit, for he informed the Secretary of State that he had ascertained that "the whole of the Ngatiawa tribe with the exception of one family of it, the Puketapu, had assented to the arrangement, and that several European settlers had already been put in possession of their lands." (77).

(77) Grey, Postscript,  
App. B. 19.

59. I have thus shown that, as in the proceedings of Governor Hobson and Governor FitzRoy, neither the Tribal Right in the Ngatiawa, nor any "Seigniorial Right," nor any Chieftain's right to forbid a sale, was admitted at Taranaki by Sir George Grey; and that in the arrangement he proposed, he intended to fulfil the promises made by his predecessor. But Sir George Grey certainly went a step farther than Governor FitzRoy; he refused to recognise, as a matter of right, either Tribal Right or individual ownership. Reserves were to be laid off for the Natives; the residue of the land was to be resumed by the Crown for the European settlers; a price per acre was to be fixed (not higher than eighteenpence per acre); and those natives who did not choose to come into the arrangement were distinctly warned they would not be admitted to be the rightful owners of the soil at all. I beg leave once more respectfully to remind Your Grace, that in simply allowing Te Teira and his people to sell their own land, I did no more at Waitara in 1860, than Governor FitzRoy thought it consistent with the Ngatiawa rights to do in respect of New Plymouth in 1844, and than Governor Grey thought it consistent with the same rights to do in respect of the whole boundaries awarded by Commissioner Spain.

#### v. Ngatiawa Migration from Kapiti in 1848.

60. But Governor Grey had been deceived in the belief that the whole of the Ngatiawa tribe acquiesced in his decision. It was soon evident that Wiremu Kingi was as much bent as ever on returning to Waitara. He pretended to be anxious not to act in opposition to the Government; but pressed on Major Richmond the offer of Waikanae, his anxiety on this head being caused by the scarcely concealed intention of the Ngatitua tribe to seize on the land at Waikanae the moment he left it. (78.)

(78) Richmond,  
App. B. 23.

61. The Governor hearing that canoes were being built at Port Nicholson for the migration, sent peremptory orders that they should be dismantled, and if necessary, seized and destroyed (79); and these orders and a Memorandum recorded by the Superintendent, show clearly that at that time it was seriously in contemplation to prevent the migration by military force (80). But Sir George Grey, desirous of trying a last effort to come to terms with Wiremu Kingi, made a further proposal of certain conditions on which he would permit him to sell Waikanae and come up to Waitara. The basis of this proposal was, that Wiremu Kingi should settle on the north bank of the river Waitara, and should "relinquish all pretensions to any lands on the south bank," (where the Block purchased by me is situate).

(79) Sir G. Grey,  
App. B. 21.

(80) Memorandum,  
App. B. 21.

"Upon all pretensions being at once relinquished to all lands to the south of the Waitara, the Government will, without further enquiry into such pretensions to these lands, admit that from the prompt settlement they are making of this question, the natives are entitled to such compensation as may be agreed on between themselves and the Officers of the Government. The Government will then also recognise and permit them immediately to dispose of their claims at Waikanae and Totaranui for such compensation as may be agreed on. The compensation in both cases to be paid in annual instalments, spread over a period of not less than three years." (81).

(81) Sir G. Grey,  
App. B. 24.

62. Thus Your Grace will perceive that even in this proposal, Sir George Grey carefully refused to recognise either the Tribal Right or any "Seigniorial right" in Wiremu Kingi, and treated his claims as mere "pretensions."

63. Wiremu Kingi agreed to the condition of locating himself on the north bank of Waitara. At the end of 1847 offers to sell Waitara were made to Government; and just before the migration in the early part of 1848, Mr. McLean went to Kapiti, any purchase of Waitara being kept in abeyance till all the claims should be clearly ascertained. At a large gathering of the Ngatiawas on that occasion, Wiremu Kingi distinctly agreed to go on the north bank: "Let me return thither, and I will then consider the

matter [of the sale]. When I get there, one side of the river shall be yours and the north side mine, whence I can look out for the Waikatos in case that tribe should meditate an attack upon us. (82)." This was publicly stated by Mr. McLean at the Kohimarama Conference, adding: "That was his word which is retained in the memories of myself and others here present who heard what passed between us. (83)."

64. Further evidence of his intention is afforded in a proposal which he made to Te Teira. "When Wi Kingi thought of returning to Waitara he sent to Teira, and said: 'Let us return to Waitara, you take one side, I will take the other, as Waikato gives us permission to return.'" (84).

65. Under these circumstances the Government no further opposed the return of Wiremu Kingi, and the migration took place in April 1848. On reaching Taranaki he went to reside at his ancestral place near the Manukorihi pah on the north bank, which bears the same name as the section of the Ngatiawa tribe to which Kingi belongs. His own claims and those of his immediate followers were represented by the best possible evidence, that of his own brother, to be almost exclusively on the north bank; and it was stated to Mr. McLean, who several years before had in company with Kingi's brother travelled over the district, when the respective claims of the different *hapus* were pointed out to him, that even on the north bank Kingi's ancestors had been but comparatively recent occupants (85).

66. And the Chief Ropouama Te One, at Queen Charlotte Sound, when Mr. McLean was investigating the Waitara purchase, said that Kingi's land was on the north bank: "I [McLean] said to him, 'Waitara is offered for sale.' Ropouama asked by whom? \* \* I enquired of him 'Is it King's?' He replied 'No, his land is on the other side of Waitara.'" (86.) But as some of the Waikatos under Rewi and other Chiefs were even then (1848) cultivating in the vicinity, and Kingi was in fear of an invasion from that tribe, he asked permission of Tamati Raru, Teira's father, to build a pah upon the piece of land on the south bank now sold to the Government, which permission was granted (87).

#### vi. Further Events from 1848 to 1859.

67. The immediate fruit of Sir George Grey's arrangement in 1847 was the acquisition of the "Grey Block," immediately adjoining the "Fitzroy Block" of 1844. In the early part of 1848, just before Kingi's migration, the "Bell Block" was acquired. I desire, in connexion with this last purchase, to bring three things to the notice of Your Grace.

68. In the first place, the land was bought from the Chief Rawiri Waiaua, and a part of the Puketapu section of the Ngatiawa Tribe, in the teeth of the most determined opposition from the Chief Katatore and others of the same family.

69. Secondly: Wiremu Kingi, who was at Wanganui at the time on his way up with the migration from Waikanae, put in a claim to the land, which was met in the way thus described by Commissioner McLean in a speech to the Conference of Chiefs at Kohimarama: "He met me on this side of Wanganui, and said to me, 'Do not give the payment for Mangati. I am willing that it should be sold, but I have a claim on it; let the payment be kept back until I arrive there; when I am there let it be given.' I replied, 'It is well, William.' Some months afterwards I called together all the people of Puketapu and other places to receive the payment. William King was also invited to be present to witness the payment. He came; and when the goods had been apportioned out among the several divisions of Tribes, I looked to see what portion was assigned to William King. None appeared: he got nothing. I therefore came to the conclusion that William King had no claim at Mangati" (88).

70. Thirdly: the purchase of the Bell Block received in 1855 the unqualified approval of the Bishop of New Zealand, who, in his Pastoral Letter to the members of the Church of England at New Plymouth, said:—"This happy result may fairly be attributed to the judicious manner in which the purchases were completed.....The whole business, conducted with the greatest fairness and publicity, was concluded to the satisfaction of both Native and European (89).

71. In further pursuance of the same plan, the Omata Block, the Tataraimaka Block, the Hua Block, the Tarururangi Block, and other smaller pieces of land, were successively acquired under the immediate controul and supervision of Commissioner McLean; who says, "The whole of the purchases previously made at Taranaki had been effected on the same principle as the present one from Te Teira, namely, that of acquiring the land from the different clans and subdivisions of clans which came in from time to time to offer it" (90). No such thing as a "seignorial right" was ever recognised, either in Wiremu Kingi or any body else. No general tribal right or right of Chieftainship was allowed to interfere with the rights of the several *hapus* or families to dispose of their lands to the British Government (91). At first the resident Natives objected, that "it would not be right to entertain the claims of the absentees who forsook the land, and took no part in defending it against the Waikatos" (92). But in every one of the purchases a portion of the payment was reserved for the absentees who had any claim, and these payments duly appear in the public accounts (93).

72. I will not prolong this Despatch, which I fear Your Grace will think has already reached an unreasonable length, by more than a passing allusion to the bloody feuds among the families of the Ngatiawa, which succeeded the return of Wiremu Kingi; or to the disgrace to the British name and authority by murders perpetrated in open day, on public highways of a British settlement, and almost under the guns of the Queen's garrison; which led to my issuing a Proclamation that any renewal of such scenes within our territory would be repressed by force of arms. These are amply detailed in the papers duly transmitted to the Colonial Office, and presented to the General Assembly in the last four Sessions. But a signal instance of the ferocity by which these feuds were

GOVERNOR'S DESPATCH,  
4th Dec., 1860.

(82) *McLean, Speech at Kohimarama.*  
App. C. 2

(83) *Ibid.*

(84) *McLean, Speech Ngaruawahia,*  
App. C. 1.

(85) *McLean, Speeches*  
App. C. 1, 2.  
*McLean, Evidence.*  
App. C. 3.  
*White, App. E. 7.*  
*Parris, App. C. 4.*

(86) *McLean, Speech Kohimarama,*  
App. C. 2.

(87) *McLean, Evid,*  
App. C. 3.  
*White, App. E. 7*  
*Hadfield, Evidence.*  
App. E. 15.  
*Hadfield, App. E. 14.*  
*Parris, App. C. 4.*

(88) *McLean, Speech,*  
App. C. 2.

(89) *Bishop of N. Z.,*  
App. E. 6.

(90) *McLean, Evid.*  
App. C. 3.

(91) *McLean, Evid.*  
App. C. 3.

(92) *McLean, Speech,*  
App. C. 2.

(93) *Public Accounts,*  
Sess. Pap. Gen.  
Assembly.

GOVERNOR'S DESPATCH,  
4th Dec., 1860.

(94) *Memorial of Prov.  
Council,  
Sess. Pap. Gen. Ass.  
1858.*

marked is exhibited by the manner in which Wiremu Kingi, who not very long after was writing to the Ven. Archdeacon Hadfield, "We are residing here in great grace of our Lord Jesus Christ," proposed to treat his enemies:—"A short time since, when the position of Ihaia seemed desperate, and when his principal opponent, Wiremu Kingi, had evinced a determination to slaughter, without regard to sex or age the inmates of the Karaka Pa, a Memorial was addressed to His Excellency the Governor, praying him to rescue these unfortunate people" (94). Ihaia has never recovered from the sufferings he underwent at that time, and remains to this day a broken man, covered with sores: but his courage and faithful loyalty to the Queen are as conspicuous as ever.

#### V.—PROCEEDINGS OF GOVERNOR GORE BROWNE IN RELATION TO THE PURCHASE AT WAITARA.

(96) *Official Statement  
App. E. 12.*

(97) *Official Statement  
Parris, App. C. 4.*

(98) *McLean, Speeches  
App. C. 1, 2.*

(99) *Buddle,  
App. C. 1.*

73. It was in the hope of putting an end to the dreadful scenes which had been enacted for so many years at Taranaki, that I held a meeting of the Ngatiawa Chiefs at that place in March, 1859, and made a public declaration of my intentions for the future. I then laid down the principle, that while on the one hand I would buy no land the title to which was in dispute by its rightful owners, I would not permit either Chiefs or people to forbid the sale of land by such members of the Ngatiawa tribe as were willing to cede their own land to Her Majesty (96). The scene which took place when Te Teira, upon my accepting his offer of land subject to investigation of title, laid a *Parawai* mat at my feet in token of the cession of his rights, must be familiar to your Grace (97). But for graphic descriptions of it, I beg leave to refer Your Grace to the addresses delivered by Mr. McLean at the great meeting of Waikato Chiefs in May last, and at the more recent Conference of Chiefs (98). At the conclusion of the first-mentioned Address many of the Waikato Chiefs were heard to say,—“The speech of Mr. McLean was quite straight; great was its light” (99).

(100) *Official Statement,  
March, 1859.  
Parris, App. C. 4.*

74. Te Teira's right was disputed before me by no one but a man named Paora; on the contrary, the cry arose, "*Waitara is gone.*" But though Wiremu Kingi did not venture to contest in that assembly of Chiefs the right of those whose representative Te Teira was in the offer, he expressed his determination to forbid the sale:—"William King, before addressing the Governor, said to his people, 'I will only say a few words, and then we will depart;' to which they assented. He then said, 'Listen, Governor. Notwithstanding Teira's offer I will not permit the sale of Waitara to the Pakeha. Waitara is in my hands, I will not give it up; *ekore, ekore, ekore*, I will not, I will not, I will not. I have spoken!' and, turning to his tribe, added, 'Arise, let us go—whereupon he and his followers abruptly withdrew" (100).

(101) *Wiremu Kingi,  
App. B. 25.*

75. This was not the first time he had informed me of his determination to prevent any sales of land at Waitara. In a letter he addressed to me on the 11th February, 1859, about a month before my visit to New Plymouth, he said:—"Do you hearken to our Runanga [village council] respecting the land. The boundary commences, &c., &c. I have therefore written to the Governor and you to tell you of the Runanga of this new year, which is for withholding the land: because some of the Maories still desire to sell land, which causes the approach of death. It is said that I am the cause, but it is not so, it is the men who persist; they have heard, yet they still persist. If you hear of any one desiring to sell land within these boundaries which we have here pointed out to you, do not pay any attention to it, because that land-selling system is not approved of. This is all" (101).

76. Now it is very material to examine this letter, because it affords conclusive evidence of the character of Kingi's claim, and a clue to all his subsequent proceedings. He claims a right over all the land between Mokau and Waitaha—a distance of more than 40 miles. Now, the Waitaha stream is the northern boundary of the Bell Block; to the north of it the Puketapu branch of the Ngatiawa have large possessions. The Chief of that section of the Tribe is Mahau, who would never for a moment recognise a "seigniorial right" in Wiremu Kingi over his lands; who is in arms with us, and who, in the exercise of his undoubted proprietary rights, came to an arrangement with Te Teira as to a dividing boundary, and would, with his people, resist any claim of Wiremu Kingi's in 1860 as they successfully resisted his claim to the Bell Block in 1848. In like manner the claim of Kingi to the whole territory, extending 40 miles North of Waitara, is so utterly preposterous as to require no notice here. I allude to his letter, because it was an open declaration of the purpose of the Taranaki Land League, of which I shall presently speak, and because it set up, just before my visit to Taranaki in 1859, precisely that kind of claim and no other which, a month after, he raised when Teira's offer was publicly made.

(102) *Notice to Chiefs  
App. C. 3.*

(103) *Native Secretary  
App. B. 25.*

77. Immediately after the meeting of March 1859, I directed that a formal notice should be sent to Wiremu Kingi, Te Patukakariki, and the other Chiefs of Waitara, informing them of Teira's offer, and inviting them to send in any claims they had (102). On the 12th of April I caused a second letter to be written to Kingi, in which I specially warned him thus: "The Governor's rule is, for each man to have the word as regards his own land: that of a man who has no claim will not be listened to." (103). The reply I received, dated 25th April, says: "I will not agree to our bedroom being sold (I mean Waitara here), for this bed belongs to the whole of us. Do you hearken to my word. If you give the money secretly, you will get no land for it. You may insist, but I will never agree to it. Do not suppose that this is nonsense on my part; no, it is true, for it is an old word: and now I have no new proposal to make, either as regards selling or anything else. All I have to say to you, O Governor, is that none of this land will be given to you, never never, not till I die (104)."

(104) *Wiremu Kingi,  
App. B. 25.*

78. There is an expression in this letter which has been much relied upon as conveying a distinct notice of proprietary right. Much ingenious argument has been used to give the word "bedroom" a peculiar force. It is urged that Kingi refers in a touching manner to the ancient birthplace of his

people, the cradle of his race : which according to immemorial usage was invested with a specially sacred character. In order to dispel this illusion, it is only necessary to say, 1st, That the birthplace of Kingi's immediate ancestors was at Manukorihi on the north bank, and 2nd, that the word in the original Maori letter is "*peti ruma*," a corruption of the English word "bedroom," and devoid therefore of the remotest connexion with any Native tradition or sentiment.

79. But the question of any proprietary right having been asserted in this or any other letter of Wiremu Kingi's is conclusively set at rest by his own public admission, openly made in the presence of his people on the 29th November 1859, to the District Commissioner :—

"Wm. King avowed his determination to oppose the sale, without advancing any reason for doing so ; upon which I put a series of questions to him, which I called upon the Rev. Mr. Whiteley to witness. Q. Does the land belong to Teira and party?—*A. Yes, the land is theirs, but I will not let them sell it.* Q. Why will you oppose their selling what is their own?—*A. Because I do not wish for the land to be disturbed; and although they have floated it, I will not let it go to sea*" (105.)

80. At the same time the Commissioner, in accordance with directions from me to that effect, read out the boundaries, and appended the following notice to the description :—

"*If any other person can prove that he owns any part of the land within the boundaries above described, his claim will be respected, and he will be allowed to retain or sell the same as he may think proper*" (106).

81. An attempt has been made to interpret Wiremu Kingi's answers in a non-natural sense : I allude especially to the endeavours of Archdeacon Hadfield and Rev. Riwaite Ahu to explain what Kingi meant to say (107). But this was exposed in the masterly speech of Chief Justice Arney, delivered in the Legislative Council on the 29th August last, of which I beg leave to invite Your Grace's perusal :—"I am aware that I shall be told, that the words in Maori have a profound and hidden meaning, not intelligible to the unlearned. And when we have applied our simple faculties to apparently plain expressions, some recondite Maori scholar tells us, 'Oh, if you knew the habits of thought of the Native mind, you would discover that those expressions convey a meaning very different from the plain import of the words themselves.' To be sure, the scholars themselves may differ upon the interpretation: but Sir, His Excellency is compelled to act upon the light afforded to his own understanding. Was it then too much to expect that even Wiremu Kingi, lofty, and proud, and ancestral Chief as he may be, should have condescended during the interval between March 1859 and March 1860, to state the meaning of his conduct? But no! after 12 months of sulky defiance, he treated the interview proffered by Her Majesty's Representative with scorn. \* \* \* I do not understand those gentlemen who find in such conduct and language an intelligible claim of right to land, or any other declaration than a declaration of war (108)."

82. But, if Wiremu Kingi failed then, and has failed ever since in establishing a proprietary right, this cannot be said of the people whom Te Teira represented. The weight of testimony is in favour of their rights. I select the following, because Your Grace will prefer the evidence of Native Chiefs to the statements of Europeans :—

At the Ngaruawhia meeting last May, Kapereira said :—"I accompanied Wi Tako on his return from Waikato. We saw Ihaia and Teira. Teira asked, 'For what purpose have you come?' We replied, to inquire about the mat,\* and to take the truth back to Waikato. I went to W. Kingi and said, I have come to inquire about the mat. He replied, 'The report is correct ; I looked on in silence.' I said, 'That was your error, you ought to have taken it away.' 'I did not, he replied, "I simply threw a word at the Governor, and said, 'I will not give you my land.' I did not take up the mat, but I spake my word. The Pakeha wants our land, but this war is about your Maori King. Don't listen to the Pakeha, but bring your flag to Waitara. Go back and clear them out ; send them all back to England (109)."

Te Wetini Taiporutu said : "If the Governor's money was laid down for the land at Waitara before it came under our law then he is right" (110). This Chief, one of the head Chiefs of the Nga-was killed at Mahoetahi the other day.

Heta, of Ngatihaua said : Make haste, hold the land :—though it was Teira's, hold it. (111).

At the Conference at Kohimarama, Hohepa Tamaihengia, an Otaki Chief, said : "In my opinion Teira's piece of land is his own, and he has a right to sell it to the Governor. I condemn Wiremu Kingi" (112).

Hukiki, another Otaki Chief, said : "I will now express my views about Taranaki. When Teira sold his land and laid down the parawai as a pledge, Wi Kingi did not come to take up the challenge, but went away" (113).

Hetaraka Nero, a Waikato Chief, said : When the land was offered for sale, Mr. McLean investigated the title according to the custom of land purchase. The nature of Te Teira's claim induced the Governor to side with him : then Wi Kingi was grieved, evil sprang up in his heart, and he declared war with the Governor. (114).

Arama Karaka, a Kaipara Chief, said : "The land belonged to Teira and Wiremu Kingi. Te Teira parted with his portion" (115).

Tamihana Te Rauparaha, an Otaki Chief well known in England, said : "That land belonged to Te Teira. He inherited it from his ancestors. When they resided at Kapiti no boundaries were fixed. The pakehas came, bringing the Gospel and Peace : then the slaves were liberated. It was only when he returned to Waitara that Te Teira became acquainted with the boundaries (possession) of his ancestors.....Now let us approve of the course pursued by Te Teira. He sold the

GOVERNOR'S DESPATCH,  
4th Dec., 1860.

(105) *Parris*,  
App. C. 7.

(106) *Parris*,  
App. C. 4.

(107) *Hadfield*,  
App. E. 14.  
*Riwaite Ahu*,  
App. D. 5.

(108) *Chief Justice*,  
App. E. 1,

\* The parawai that  
Teira deposited at my  
feet in March, 1859.

(109) *Kapereira*,  
App. D. 1.

(110) *Wetini*,  
App. D. 1.

(111) *Heta*,  
App. D. 1.

(112) *Hohepa*,  
App. D. 2.

(113) *Hukiki*,  
App. D. 2.

(114) *Hetaraka*,  
App. D. 2.

(115) *Arama*,  
App. D. 2.

GOVERNOR'S DESPATCH.  
4th Dec., 1860.

(116) *Raupahara*,  
App. D. 2.

(117) *Riwai te Auh*,  
App. D. 5.7

(118) *Hadfield*,  
App. E. 14.

(118A) *McLean*, 1844,  
App. B. 11.

land under the light of day. He gave a *parawai* as a covering for this land. William King did not take it away so as to repudiate Te Teira's claim to the land" (116).

83 The Rev. Riwai Te Auh, in his letter to the Superintendent of Wellington, (so much relied upon by the apologists of Wiremu Kingi) distinctly admits: "For instance, Mr. C. W. Richmond writes, Taranaki, March 1860, (which has been heard by everybody) 'Teira's title has been fully investigated, and is perfectly good: there is no one to deny his title.' Yes, *his title is good to his own pieces within the boundaries of that land, two or three pieces*. Our title is equally good to our own pieces; some have one, or two, or three, or four within that block" (117).

84. And Archdeacon Hadfield himself says: "Teira's father is indeed the owner of a small portion of the block." (118.)

85. The question therefore narrows itself simply to this: How much or how little land Te Teira and the other Chiefs who joined with him in the sale to Her Majesty owned? It was to ascertain this that I desired to make the survey, which was forcibly interrupted by Wiremu Kingi. As Katatore had done before him in 1844, he "would not consent to any information being given as to land, or individual portions pointed out, fearing it might prejudice his assumed influence." (118A.)

#### VI.—MISREPRESENTATIONS OF THE ABOVE PROCEEDINGS.

86. Your Grace will not expect that I should notice any mis-statements, out of the numbers that have naturally enough been spread abroad since the insurrection broke out, except such as may appear in documents which have been sent to me for transmission to the Colonial Office. I wish, however, to notice a few of those which appear in a letter which I saw for the first time in a newspaper a few days ago, purporting to be addressed to Your Grace by Archdeacon Hadfield, from Otaki, on the 29th May last.

87. The Archdeacon states that he is informed that the Petition of the Natives of Otaki for my recall was "through some alleged informality detained, thus furnishing another instance of the "difficulty experienced by the natives in obtaining any remedy for an act of injustice." The Petition reached me on the 19th April, and on the 28th of the same month I informed Your Grace that I had received it and would forward it, after making enquiry as to its authenticity, by the next mail. Accordingly I did forward it by the next mail, viz., on the 25th May.

88. The Archdeacon asks if it will be believed that (the survey having been attempted on 20th February) martial law, dated Auckland January 25, had already been placed in the hands of a subordinate officer to be used at his discretion. This has been explained in my Despatch No. 64, 28th June 1860; but I may here state that the only use or object of martial law was to enable the Officer Commanding to call in the settlers and subsequently to embody them for the defence of the town, should it prove necessary to do so. Not to have provided for such a possible contingency would have been most culpable. Martial law was applicable to the settlers alone. Indeed the Maories in Taranaki have never recognised our law at all, so that a suspension of it could not affect them in any way. Lieut.-Colonel Murray, to whom this power was entrusted, had received the same power in 1858 and did not use it, so that there was no reason to doubt his discretion.

89. The Archdeacon says:—"The question at issue is simply this; Is a Native Chief to be forcibly ejected from his land, because an individual member of his tribe tells a subordinate land agent that it is his, and not the Chief's, and that agent believes him? *The Governor says Yes; the Chiefs say No* (119)." In answer to this I can only say it is not true that I have forcibly ejected Wiremu Kingi from his land. It was known from the first that he had a small portion of land on the south bank of Waitara River; this was left out of the survey; and if Kingi had any further proprietary claim, it was expressly saved by the Memorandum I have quoted above (120).

90. Archdeacon Hadfield says:—"Some years before the establishment of the British Government in New Zealand, a large portion of the Tribe migrated to the southward to Cook's Straits, for the purpose of being near whalers and obtaining English goods. William King was one of this party" (121). The migration had certainly no such peaceful character: the evidence of the Protector of Aborigines in 1844 is clear, that it took place for purposes of conquest (122). A further migration took place under terror of the Waikatos, and "at the time of the invasion," says Governor Fitzroy, "by far the greater number of the Ngatiawa, with their principal men, were absent on a hostile excursion in the South" (123).

91. Again: "But they [the Waikato] never held possession of the land, and consequently never acquired any title to it (124)." But their possession, occupation, and cultivation has been proved above to have existed, and the title to have been maintained (125).

92. Again: "William King, it will be observed, was never conquered or driven from his land (126)." The fact is, he ran away from it; and went back by permission of the conquerors and of Sir George Grey (127).

93. Archdeacon Hadfield says:—"I deny that any investigation whatever deserving that designation has ever taken place. *The Chief Commissioner did not investigate the claim*" (128). Now, in answer to this grave charge, I beg leave to refer Your Grace to the following testimony by the Chief Commissioner:—"But we did not take the land at once. You say we were hasty, but we were not. Eight months passed over before the bargain was closed. We inquired of all the people, and could not find any rightful claimants but Teira and his friends. We said, 'If W. Kingi has a piece in this block, we will not have it, we will leave it outside.' Do not say, then, that

(119) *Hadfield*,  
App. E. 14.

(120) *Memorandum*,  
App. E. 4.

(121) *Hadfield*,  
App. E. 14.

(122) *Clarke*,  
App. B. 8.

(123) *FitzRoy*,  
App. B. 16.

(124) *Hadfield*,  
App. E. 14.

(125) *Clarke*, (1844),  
*McLean*, *Waikato*

*Chiefs*, (1844),

*White*, *Wilson*,

*Buddle*, *Tamati*

*Ngapora*, *Katipa*,

*&c.*, *&c.*, *ut supra*.

(126) *Hadfield*,  
App. E. 14.

(127) *White*, *McLean*,  
*Grey*, *&c.*, *ut supra*.

(128) *Hadfield*,  
App. E. 14.

the Governor made haste to buy it; he took time enough to investigate the claim. You have said that one man sold the land, but there were seventy persons consenting to the sale" (129)..... "Before leaving Taranaki, I instructed the Land Purchase Commissioner there to investigate carefully the claims to this piece of land, and not to proceed hastily in the matter. He has since been constantly engaged in inquiring into the question of title, William King also being present at the meetings and admitting that the land belonged to the sellers. After the talk about the Waitara, I crossed the straits to Arapaoa, and saw that section of the tribe which is with Ropoama Te One. I mentioned that a portion of the Waitara had been offered. I recited the boundaries, and asked; 'Does that land belong to King?' The reply was, 'No; if it was on the other side of Waitara his claim would be just, but this side belongs to us; let us have the payment'..... They pressed the matter, and a third time they asked me to give them the payment. I replied, 'Wait until the question is properly settled.' Afterwards they agreed to this. The names of these Arapaoa people who have claims at Waitara are Ropoama Te One, Ripeka, Ngawhena, Herewini, Ihaka, Te Retimona, Timoti, Anaru, Haimona, Henare Rupuha, Arapere, Hamiora, Tohi, Pirihira, Nata, Rakira, Eruera te Rangi, Whiroa, Te Rei, and others. These people consented to the sale. It was I who delayed the matter, wishing that the claims should be investigated upon the land of their forefathers" (130).

94. I beg to remark that one of these speeches, addressed by Mr. McLean to the assembled Chiefs at Ngaruawahia and Kohimarama, was delivered within a few days of the date of Archdeacon Hadfield's letter, and the other a few weeks after. The following are extracts from the Chief Commissioner's evidence at the Bar of the House of Representatives:—

"With reference to the particular block under consideration, the claims of the actual owners were carefully enquired into. Notice was given publicly at the time of the purchase to such absentee claimants as were known to have a right to the soil. It was not considered necessary to go about the country to rake up claims, or to induce Natives to prefer them. It was well known that when any block of land was offered for sale, there was no hesitation on the part of claimants to come forward to receive that portion of the proceeds to which the extent of their claims might entitle them. The sale of any land in the country soon becomes known throughout it from one end to the other, and it is often found that a hundred fictitious claims are adduced when the actual owners altogether do not exceed thirty or forty persons. There has been a great deal said about unsatisfied claims in different parts of the country, but my own conviction is that many of those claims have been manufactured. At all events, I found that in the course of a few months after the time of the first offer of the land and my notification of it to the tribes at the South, several parties were adducing claims who had never previously done so. It is notorious that if any native thinks he has any chance of obtaining money for land, it is an easy matter for him to assert a claim (131).

"During the investigation which took place, and while the difficulty was being adjusted, I felt convinced that the claims then preferred by these conflicting parties were substantially good, and that, in fact, the sale must be proceeded with, or otherwise the natives who had offered the land would be treated with great injustice. The officer whom I instructed to conduct the negotiation (Mr. District Commissioner Parris) was requested to persevere in his inquiries into the matter from time to time; not in any way to hasten the arrangement, but to give full opportunity to opposing claimants to come forward and state their case. He not only did this, but he also took a great deal of trouble in visiting, as far as lay in his power, every part of his district, to make sure that there should be no substantial claim overlooked. I have already stated that there was a public notification from myself, inviting all persons who had claims to bring them forward, in order that they might be carefully investigated. No fresh claims were recorded, however; no rights were shown by the Natives who opposed the sale, *except the right which the land-league conferred upon them, that of claiming land everywhere, and of opposing the sale of land everywhere* (132).

"There was no urgency displayed in this matter, no desire to hasten it, but ample time was given to all parties to put forward their claims; and not only was there ample time given, but claims were solicited and hunted up in every direction in Taranaki itself. Yet, with the exception of the two tribes who sold the land on the banks of the Waitara, and another tribe on the banks of the Waiongana, who were joint claimants to a part of the block, no substantial claims were put in. If I were to say that no other claims were adduced, I should be wrong, but I mean no substantial claims, no claims that could be recognized by the Government, or which would be regarded by the natives as valid. Certainly one man told me that his grandfather had once lived a short time on the land, and that he therefore expected compensation. Another told me that in one of their fights he was wounded and suffered great inconvenience there, and therefore thought it was right that he should have some consideration now that the land was sold. Now, this is the class of claims of which I have just been speaking, which it is clearly the duty of the Government to resist, as otherwise it would be an utter impossibility to carry out any purchase of land without defrauding the real owners. By compensating this class of claimants, the real owners would be deprived of what they are fairly entitled to, and merely because the Government chose to recognize fictitious claims of this character (133).

"The Chief Ropoama, who offered to dispose of his claim, was recognised as the head of the hapus or sub-divisions of the Ngatiawa tribe, who owned the land and sold it. He holds a high position among his people, and is much respected by the Europeans. On several occasions it was contemplated by the Natives of Waitara to invite him there, and to live among them as their Chief, to keep peace and order in the tribe. *In this arrangement Wiremu Kingi* (about whose chieftainship we have heard so much, and who undoubtedly was a Chief of the section of the Ngatiawa at Waikanae) *acquiesced*. No actual payment, or promise of payment, was made to the Natives at Queen Charlotte's

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(129) *McLean, Speech at Ngaruawahia,*  
App. C. 1

(130) *McLean, Speech at the Kohimarama Conference,*  
App. C. 2.

(131) *McLean, Evidence at the bar of the House of Representatives,*  
App. C. 3.

(132) *Ibid.*

(133) *Ibid.*



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Sound at that time. When they informed me that they had agreed to sell the land, my reply to them was, that they had better wait until matters had been finally arranged at Waitara, as I should not feel myself justified in concluding the purchase with them till then. . . . . Having arranged with them that they should be paid after matters were settled at Taranaki, I left Ropoama's place for Wellington, where I notified to the Natives what had taken place with reference to Waitara. I had previously ascertained the names of the Wellington claimants to the land. I consulted them about it, and made similar arrangements with them to those which I had made with Ropoama, that they should be paid when the block was settled for at Taranaki. I believe that one or two of Ropoama's people were at Waikanae at that time, and he promised to see them on their return, and to endeavour to arrange matters with them with respect to their claims. It has been recently stated that, in addition to these persons who are known and recognised as the actual owners, claimants are to be met with at the South as numerous as a swarm of bees; but I think that those who say so, would find very great difficulty in establishing anything beyond mere assertion of right to the land comprised in the Government purchase. Knowing how scattered the claimants were, and the difficulty of getting them all together in any one place at any one time, *I was a long time pursuing investigations before I myself came to the conclusion that the purchase was quite satisfactory; but the more I enquired into the case, and came into contact with impartial Natives residing at a distance, and having no particular interest in the locality, the more I became satisfied that the purchase was a good one*" (134).

(134) McLean, Evidence,  
App. C. 3.

(135) Hadfield,  
App. E. 14.

95. But the complaint is, that the investigation was not by some Court. "What is demanded by the Natives," says the Archdeacon, "is an impartial Court, in which their respective claims can be stated, and before which they may bring evidence to be received on oath. Nothing short of an inquiry, conducted on such principles as these can be considered an 'investigation' of their titles to land" (135). In reference to this, the Chief Justice, in his speech to the Legislative Council which I have before quoted, said: "On the present occasion it is enough to say that if Wiremu Kingi had any title, tribal or otherwise, he owes it to himself that his title was not recognised; seeing that the purchase from Te Teira and others was not hastily concluded, and that while His Excellency's conduct was marked by patient and thoughtful reserve, he was met not only with defiance, but contempt. . . . . But, Sir, when I assert that His Excellency was forced into this war by circumstances beyond his controul, I look a little beyond this isolated purchase of Teira's land. I ask in what condition His Excellency found the Native race? And when it is said that Kingi's dispute should have been referred to some tribunal, I ask, what tribunal? If you tell me, to the Commissioners, I ask, what Commissioners? If Kingi had been summoned before some tribunal, and had as assuredly he would have, refused to come—what then?" (136). And Mr. Swainson, in his speech in the same debate, said: "I do not mean to say, that if any such tribunal had existed, the Native disturbances at Taranaki would never have arisen: neither do I make the remark in disparagement of the present Ministry. I believe that the present Government is no more to blame for the want of such a tribunal than the Governments who have preceded them. I am the more careful to make this statement, because the Governor has been blamed, but as I believe unjustly blamed, for not having submitted the claims of Wiremu Kingi to a Court of law" (137).

(136) Chief Justice,  
App. E. 1.

(137) Swainson,  
App. E. 2.

96 But when such a tribunal was in existence, when the opportunity was before him of giving "evidence on oath" with respect to his claims, Wiremu Kingi did not avail himself of it. Why did he not, being on the spot at the time (as I have proved above), tender his evidence before Commissioner Spain, whose Court was precisely such a tribunal as is referred to? What he would not do in 1844 he would not have done in 1860 or at any other time; namely, appear before any tribunal whatever *with the least intention of submitting to its decisions*. And if any such tribunal had existed in 1860, he would have been met at once by this rule, stated by the Bishop of New Zealand in his evidence before a Select Committee of the House of Representatives: "I believe that it is in accordance with Native custom that any person *not asserting a claim at the time of sale would be barred*" (138).

(138) Bishop of N. Z.  
App. E. 3.

(139) Hadfield,  
App. E. 14.

97. Archdeacon Hadfield further says:—"The absurdity of the procedure, not only in this particular case but in all the so called investigations of Native titles to land, appears in the fact, that up to the present time no principles have been laid down as to what constitutes a title to land (139)." To this I oppose the fact, which I have detailed above, that the most clear and decided and uniform principle has been laid down ever since 1844 in dealing with the Ngatiawa title at Taranaki; and the opinion of one of the authorities I have quoted on Native Tenure, who says: "I believe that were it possible to teach the Maories the English language, and then bring them into some Court, allowing each contending party to plead his cause in such a dispute as I have mentioned, not according to English law but Maori custom: *both sides would according to Native genealogy and laws make out their respective cases so clearly that it would take a Judge and Jury possessed of more than human attainments to decide the ownership of the land*" (140).

(140) White,  
App. A. 14.

(141) Hadfield,  
App. E. 14.

98. Archdeacon Hadfield says:—"Still, I feel bound to express my opinion that the Governor's attack on William King was not only impolitic, but, under the present circumstances of the Colony, an act of folly bordering on insanity" (141). In answer, I beg to submit the opinion of the Chief Justice, who says: "From the moment when Te Teira offered for sale his interest in that block of land, and placed his mat before the Governor in token of its surrender, His Excellency was bound by every consideration of Treaty and of Justice to accept the offer to the extent and upon the conditions on which he then accepted it. I think, further, that from the moment when Wiremu Kingi, after passing with insult and defiance from the Governor's presence on that occasion; after declining for twelve months to explain the nature of his own claim (if such he had) or the grounds of his prohibition



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upon the sale; after resisting the survey by force, and rising with his followers in arms; when, I say, after these same events this same Chief refused even to meet His Excellency under a written promise of safety, but responded to His Excellency's forbearance only by war dances, war pahi, and the murder of unarmed settlers; His Excellency had no alternative but to accept the issue thus forced upon him" (142).

(142) *Chief Justice,*  
App. E. 1.

99. Archdeacon Hadfield has committed himself to one positive statement of fact among the many vague assertions in which his letter abounds. He says:—"But with regard to Teira's right to sell, which is so positively asserted, and on the supposed validity of which a war has been commenced at Taranaki, can I expect to be believed in England when I assert, *as I do unequivocally*, that Teira's father, Tamati Raru, through whom alone the son could lay claim to any land, as inherited by him from his ancestors, is still living, and opposed its alienation? Teira's father is, indeed, the owner of a small portion of the block; but it would be irrelevant to the purpose of my present argument to discuss his right to sell, *inasmuch as he has refused to do so, and co-operated with William King in opposing his own son up to the very commencement of hostilities*" (143).

(143) *Hadfield,*  
App. E. 14.

100. In answer to this positive assertion of fact, it is only necessary to say that the Archdeacon's letter was dated May 29, that hostilities commenced on the 18th March, that Tamati Raru, Teira's father, signed the Deed of Sale to Her Majesty on the 24th February, that he was one of those who cut the boundary line, and that he asked for and received a gun and has constantly borne arms on our side (144).

(144) *Deed of Sale,*  
App. C. 6.

101. I now refer to the last matter on which I shall trouble Your Grace in reference to the Archdeacon's letter. Speaking of the official statement which I had caused to be circulated immediately on the breaking-out of hostilities, the Archdeacon says:—"I deny the truth of all the statements. I am prepared to prove their falsity here, where evidence can be obtained" (145). Upon the General Assembly being finally summoned for dispatch of business on the 31st July last, Archdeacon Hadfield came up from Wellington. The House of Representatives, being made aware of the strong views which he entertained on the subject of the Waitara purchase, examined him at the Bar of their House. Considering that on the 29th May he had committed himself in a public pledge to Your Grace that he was "prepared to prove the falsity of all my statements," his evidence at the bar in August, when he had so much more time to complete his case, should have been clear, definite, and conclusive.

(145) *Hadfield,*  
App. E. 14.

102. The following summary of his answers on most important points requires no comment. When he is asked if he knows the position of the land in dispute, he says, "I do not know the precise boundary line." When asked who were the owners of the land previous to the dispute, he says, "I have direct information from persons stating they are claimants; I am only giving my opinion on that information." When asked on what authority he states there are 90 claimants on the block, he says, "What I have now stated on this subject rests on the assertions of others. I am here as an unwilling witness in the case before the House, unprovided with direct proof. I am but a secondary witness. *I do not know whether I fully understood the question.*" When asked whether Wiremu Kingi is one of the ninety, he says, "I have before stated that the right of the tribe extends over the whole of that block; therefore he is one of the claimants." When asked whether King ever made a proprietary claim, he says, "I hear that he made a proprietary claim to a portion of the block." When asked what proof he has of a certain Native (Hamere) having a claim, he says, "An old man who resided at Waitara 40 years, pointed out to me *when I was at Waikanae* [150 miles away] portions of the land which belonged to Wiremu Kingi." When asked whether he is acquainted with the details of the negotiations for land in the New Plymouth district, he says, "I could not say that I was acquainted with the details." When asked of whom the Bell Block was bought, he says, "Principally I believe from returned slaves from Waikato; so I have been informed." Of whom the Hua Block?—"I do not know." Of whom the Taurururangi?—"I do not know." When asked if Wiremu Kingi received any payment for the Bell Block, he says, "I do not know whether he did or not." When asked the territorial boundary of the four hapus of which he says Wiremu Kingi is the head, he says, "I am not acquainted with the boundaries. *I have never professed to be acquainted with the boundaries.*" When asked whether these four hapus have equal rights to the South bank of Waitara, he says, "I think they have." When asked if King's people ever cultivated on the disputed block, he says, "I am not aware that they have cultivated any part of that land since their return." When asked whether any of their cultivations were in the disputed block, he says, "I do not know from personal knowledge." When asked where Reretawhangawhanga (Wiremu Kingi's father) had his Pa before the migration, he says, "I do not know." When asked if there was a Pa on the disputed block before the migration, he says, "I do not know." When asked on what authority he said there was no investigation of the absentee claims, he says, "I am quite certain none was made at Waikanae. It must be generally understood that my evidence in reference to this dispute is derived chiefly from the Chief Hohepa Ngapaki and Riwai te Ahu. I have had information from others, but I limit myself to those two." When asked whether Wiremu Kingi had any opportunity offered him of stating his claim to the Government officers, or to the Governor himself, before military force was brought into action, he says, "I presume he had innumerable opportunities; he might have written by every post. He had an opportunity of meeting the Governor after the publication of martial law. After further conversation between Mr. Sewell and the witness, witness said, *I must then confess myself unable to understand the question.*" When asked whether prior to the dispute he had had conversations relative to the respective rights of the four hapus on the south bank, he says, "I have previously stated that I believe in the fact of the tribal right of Wiremu Kingi—having stated as much distinctly, *it is a question in which I take no interest, as I think it irrelevant*, I have had conversa-

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(146) *Hadfield,*  
App. E. 15.

tion on the subject, and I do not believe that any separate rights exist between Ngatihinga and Ngatituaho on the one side and Ngatikura and Ngatienuku on the other: the various hapus through former intermarriages are so mixed up one with another that it would be impossible to give either an affirmative or a negative to a question which you can neither believe nor disbelieve: *the question is perfectly unintelligible and irrelevant*" (146).

(147) *Resolution of*  
*House of Repre-*  
*sentatives,*  
Sess. Pap. Gen. As-  
sembly, 1860.

103. From the foregoing extracts it will be seen that although Archdeacon Hadfield says in his letter of 29th May, "I have hitherto felt my ground secure, dealing with facts within my knowledge," he really knew but little of the matter. Certain it is that he failed in the attempt to convince the House of Representatives that Kingi was right, for immediately afterwards the following resolution was passed, approving the policy I had pursued:—"That in the opinion of this House, the interference of Wiremu Kingi at Waitara, and his resort to force to prevent the survey of land there, rendered the measures adopted by His Excellency the Governor indispensable for the due maintenance of Her Majesty's Sovereignty, and that the welfare of both races of Her Majesty's subjects peremptorily requires a vigorous prosecution of the war to a successful termination" (147).

(148) *Address, Legis-*  
*lative Council,*  
Sess. Pap. Gen. As-  
sembly, 1860.

104. The Legislative Council adopted the same view, and addressed me in the following terms:—"We, the Legislative Council of New Zealand, beg to assure Your Excellency of our earnest desire to afford to Your Excellency our most cordial support in carrying on the war now unhappily existing in a portion of this Colony. Deploring, as we do, the existence of this evil, a feeling which we are persuaded is entertained by Your Excellency with equal strength, we are convinced that Your Excellency has been forced into this course, by a series of circumstances beyond Your Excellency's control" (148).

(149) *Resolution, Con-*  
*ference of Chiefs,*  
*In Maori Messenger,*  
August 1860.

105. And the Conference of Chiefs at Kohimarama, who best knew what the rights of the Ngatiawa people are, passed the following Resolution condemning Wiremu Kingi, and justifying me; which resolution was signed by the Chiefs with only three dissentients:—"That this Conference having heard explained the circumstances which led to the war at Taranaki, is of opinion that the Governor was justified in the course taken by him; that Wiremu Kingi provoked the quarrel; and that the proceedings of the latter are wholly indefensible" (149).

#### VI.—THE RELATION BETWEEN WIREMU KINGI'S INSURRECTION AND THE NATIVE KING, MOVEMENT AND LAND LEAGUE.

106. I have on so many occasions, in dispatches addressed to Your Grace's Department during the last four years, described the various phases of the agitation which resulted in setting up a Native King and the establishment of a League among a number of Tribes to forbid the further cession of Native lands to Her Majesty, that I shall confine myself to indicating here the close relation which has subsisted from the first between that movement and the insurrection of Wiremu Kingi.

(150) *Buddle,*  
App. E. 5.

107. I beg, in the first place, to refer Your Grace to the following account given by the Rev. Mr. Buddle, Superintendent of the Wesleyan Mission, in a pamphlet specially devoted to the origin and progress of the King Movement, of the deputation which came up to Waikato from the Ngatiawa and Ngatiruanui tribes, to hand over their lands to the King:—"During 1859 two or three deputations visited the South and left the Maori King's flags at Taranaki, and with the Ngatiruanui. It is said that Wiremu Kingi Te Rangitake refused to receive the flag or to join the movement; but in the autumn of the present year a deputation from the Ngatiawa and Ngatiruanui tribes visited Waikato, entrusted with the important duty of presenting the allegiance of those tribes to the Maori King, and of handing over their lands to the league of which he is the recognised head. The deputation consisted of about sixty picked men, chiefly young men. They arrived at Ngaruawahia on the 10th of April, accompanied by Ngatimaniapoto from Kawhia, Rangiaohia and Upper Waipa. They marched up to the flag staff, three abreast, wearing favors to distinguish the respective tribes. On reaching the flagstaff one stepped forward, and with a clear distinct voice said, 'Honour all men, love the brotherhood; Fear God; Honour the King;' then turning to the train he said 'Honour the King;' all responded by uncovering and kneeling. The leader of the Ngatiruanui then read from a memorandum book an address beginning, 'O King, live for ever: thou art bone of our bone, and flesh of our flesh; thou art a saviour for us, our wives, our children,' &c., &c., and went on to pledge their allegiance. The leader of the Ngatiawa then read a similar address. 'Honour the King' was again demanded, and a low salaam, and a general cry of hear, hear, hear, was the response" (150).

(150A) *Ibid.*

108. It was while this deputation was in the Waikato that news arrived of the breaking out of hostilities at the Waitara. This fact will explain much that would otherwise be unintelligible in the speeches of the Chiefs at Ngaruawahia, from which I shall presently give extracts. "The Chiefs of the Ngatimaniapoto tribe were no doubt encouraged to make their revolutionary proposals and to use the strong language contained in their speeches, by the speeches of two Waikato Chiefs, Te Wetini and Karamoa, who spoke the preceding day, when the Ngatiruanui and Ngatiawa presented their allegiance to Potatau" (150A).

109. Before quoting from the Native speeches, I beg to refer to the following further particulars as to the purposes of the Land League:—

"These opponents [to Land sales] pushed their views, and sought to make it *Te Tikanga o te Iwi* (the Law of the Tribe) that no individual or family should alienate land without the consent of the whole tribe. To make the law popular and binding, they determined on a more general meeting, and to invite all the tribes along the coast to join them in this measure. \* \* \* This was the origin of the notorious Taranaki Land League, which evidently contains the elements of the present

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King Movement; which has proved so fruitful a source of dissension among the tribes of that district, caused so much bloodshed, and brought about the present collision between Wi Kingi and His Excellency the Governor. \* \* The land thus given over to the King, is not to be alienated without his consent. This might be all fair if the party stopped here. But they resolve that no land shall be sold within their territory, *even though the owner may not have joined the League*. Any man, therefore, attempting to sell a block of land, would subject himself to summary proceedings at war. And any attempt to take possession of the purchased block by the Government, would be resisted by force of arms, *as in the case of the land at Waitara*" (151).

(151) *Buddle,*  
App. E. 5.

110. The Rev. Mr. Morgan, Church of England Missionary, who has resided 20 years in the Waikato district, writing to the Select Committee of the House of Representatives on Waikato affairs, says:—"In other words, the vital question with the Maori Kingites now is, whether the King or the Queen shall possess the *mana* of New Zealand. Hence the frequent expressions of the Waikatos now in arms, 'We are going to fight for New Zealand. We sent the King's flags to Taranaki, and it is our duty to follow the King's flag. We are fighting for the *mana* of our island.' *The Maori King Movement is the strength of the Taranaki war* (152). \* \* \* "This entirely depends on the issue of the present war, which, on the part of the Waikato, is a struggle for the *mana* of the Maori King, and not for the small piece of land sold by Te Teira at the Waitara. They only considered that small block of land as it refers to the *mana* of the King all lands on which his flag has been planted" (153).

(152) *Morgan,*  
App. E. 4.(153) *Ibid.*

111. The Rev. J. A. Wilson, Church Missionary, writing to the same Committee, expresses his entire agreement with Mr. Morgan's opinions (154).

(154) *Wilson,*  
App. E. .

112. At the Ngauruawhia meeting, where nearly 4,000 were assembled, the following conversation took place between the Chiefs Tamati Ngapora, and Patene (of Ngatimaniapoto), who represented Wiremu Kingi.

Tamati Ngapora: "I wish my proposals to be disposed of. Rangitake, give me that piece of land that has caused the war. Give me that piece that has been purchased and paid for by the Governor."

Patene (Ngatimaniapoto) replied, representing Wiremu Kingi, "I shall not give it up."

Tamati Ngapora: "Give it to me."

Patene: "I am under some mistake." He then planted a stick in the ground to represent Potatau and Waitara, and said, "This is Potatau; my *mana* stands there; after my *mana* rested on the land the scrofulous man arose, offered it for sale, and the Governor accepted the offer."

Tamati: That is Potatau, is it? and this land has been handed over to Potatau, has it? Then it is mine; I represent Potatau here; and I give this land to the Governor." (Tamati was instructed by Potatau to adopt this plan.)

Patene: "For what reason do you give that land to the Governor?"

Tamati: "That peace may be restored and our trouble cease" (155).

(155) *Tamati & Patene*  
App. D. 1.

Paora (a Chief of Ngatiwhatua) said at the same meeting:—"You say that you have not seen wrong on the part of Te Rangitake (Wiremu Kingi). I have seen his wrong doing. Letters have reached you that convict him of wrong. Yet you say you have not seen it. I repeat, I have seen it, and I believe there is not a Chief in Waikato that is not convinced that Te Rangitake is wrong..... You speak of *mana*. What is the *mana*? Where is the *mana*? There is no such thing as putting *mana* on the land (156).

(156) *Paora,*  
App. D. 1.

Heta Ngatihaua (the young man who made the flags that were sent to Taranaki) said:—"Press your words, Ruihana. Send a deputation to Taranaki; let us know when that land was paid for; before our *mana* reached it or after. If our *mana* was first, we do not let it go, but support Rangitake in his right. This shall decide his claim. The money second, the *mana* first;—we hold it fast (157).

(157) *Heta,*  
App. D. 1

Kopara, of Ngatihaua, said: All subjects are disposed of but one. The question is, was the flag first or the money first? If the land was paid for before the flag reached it, the Governor is right; if not, then the matter cannot rest where it is. If the *mana* and flag went before, we must contend for our land (158).

(158) *Kopara,*  
App. D. 1.

Te Wetini Taiporutu, of Ngatihaua (the Chief who was killed at Mahoetahi), said:—"I wish to reply to one question. If the Governor's money was laid down for the land at Waitara before it came under our law, then he is right. But if it was paid for after the land was handed to us, I do not say what we shall do. That we keep in our pockets; I open not my mouth on that subject, but I can see the depth and height, the length and breadth of that. I lean on our flag. If the land was purchased after it became ours, then I shall show my love to Rangitake (159).

(159) *Wetini Taiporutu.* App. D. 2.

113. At the Conference at Kohimarama, Tamati Waka Nene said: "For this reason, I repeat, it is enough: cease to clamour for a King. Although some may enquire, whence sprung the disturbances at Taranaki? I will declare that the evils sprung from that King (Movement). Now that my Waikato friend is dead, cease to call for a King. I know full well that the evils have sprung from that King; therefore I say again, put an end to it." (160).

(160) *Tamati Waka Nene,*  
App. D. 2.

Tamihana te Rauparaha said: "Wiremu Kingi tries to maintain his landholding influence, (*mana-pupuri-whenua*,) the *mana* of New Zealand; but perhaps one reason is jealousy of the *pakeha*." (161).

(161) *Rauparaha,*  
App. D. 2.

Hetaraka Nero said: "The Waikato people set up a Maori King. The object of this was to hold the land. When Te Rangitake heard that his own idea was being carried out, his heart rejoiced. I am speaking ill of Waikato and Wiremu Kingi. I say, that evil will increase. In these

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(162) *Hetataka*,  
App. D. 2.

(163) *Wi Kingi*,  
App. D. 1.

(164) *W. Nera*,  
App. E. 2.

(165) *Te Waru*,  
App. E. 9.

(166) *Wetini*,  
App. E. 9.

(167) *Karaka*,  
App. E. .

(168) *Despatch*,  
App. E. .

times my ears have heard indistinctly that those tribes have been acting treacherously, and the opinion respecting them cannot be concealed. This Island is filled with the evils of the Maoris." (162).

Again, Wiremu Kingi himself said to the Waikato Chiefs and Wi Tako who visited him to enquire about the purchase: "*The pakeha wants our land, but this war is about your Maori King. Do not listen to the pakeha, but bring your flag to Waitara. Go back and clear them out: send them all back to England.*" (163).

114. The Rev. J. A. Wilson furnishes further evidence on the same subject, from three Chiefs who spoke with him during a visit of two months to Waikato. Wiremu Nera Te Awaitaia, one of the highest Chiefs of New Zealand, said to him: "You must understand this: the war is not a struggle of the Maori with the Pakeha; it is not a war with the Missionary; it is not a war with the Magistrate; *it is a war of the King with the Queen*" (164). Te Waru, another high Waikato Chief, said: "Friend, all this fighting and plundering would not have occurred had we not made a King. This is the root of the strife. It is Waikato who fight the cause of Taranaki: the men of the soil keep at a distance, they are but slaves: we fight their battles, we are the strength of this war" (165). Wetini Taiporutu said: "The war was not merely a contention for the land at New Plymouth, but for the Chieftainship of New Zealand. Wherever the King's flag went they (the war party) would follow. If the Governor sent troops to *any* part of this island they would meet them." (166).

115. And lastly: Karaka Tomo te Whakapo, from Rangiaohia, said: "You are right, those are our mottoes. Let there be no evil of any kind, no war among the Pakeha, and no war among the Maories. *But let us build our Pa, let us complete it. Let it be quite finished. I do not consider it completed yet.* Leave the other things, the war at Taranaki for the Evil Spirit to carry on. Twice he has turned upon us, and twice we have forgiven. Let us abide by our three mottoes and wait to see if he will be strong and persevere. Our Pa stands broken: listen William, Takerei, Wetini, listen, I consider that our pa for our wives and children is not yet complete, let us finish it, dig the trenches, throw up the breast-work and bind the fences. Look at his (the Pakeha's) work in other lands, never too late, never behind time (alluding to the prompt movements and careful preparations of the Europeans)—therefore I say quickly build our pa."—Tapihana replied: "What pa is that you are building? we have built our pa, and it is broken down and stained with blood. The wealth we had collected into our bag is scattered, it is thrown out into the fern, who shall gather it up again? (alluding to the men who had fallen at Taranaki.)" (167)."

116. Your Grace will determine, with the preceding evidence before you, whether I was right on the 22nd March, 1860, four days after the first shot was fired in this war, in saying, "It is now clear to me that Wiremu Kingi has been encouraged in his opposition by an assurance of formidable support, and that the question of the purchase of an insignificant piece of land is merged in the far greater one of nationality." (168).

#### VII. LASTLY, THE PRESENT ASPECT OF THE SUBJECT.

117. The evidence which I have submitted to Your Grace will, I feel confident, be deemed sufficient by Her Majesty's Government upon the following points:—

1st. That there is reason to doubt whether any "Seignorial Right," distinct from the right of property, in a Chief of a Tribe to assent to or forbid the sale of land by the separate hapus or subdivisions of the tribe, had any existence at all among the Natives of these Islands prior to the Treaty of Waitangi.

2nd. That while the proprietary rights of Chiefs, Families, and People were guaranteed by the Treaty, no right in the Chiefs distinct from a right of property was thought of in the original interpretation of the Treaty.

3rd. That no such right has been admitted to exist in any Chief of the Ngatiawa tribe at Taranaki, throughout successive acts and decisions of every Governor of New Zealand.

4th. That Governor Hobson in 1842 recognised the Waikato title by conquest, and (through the then Chief Protector of Aborigines) took a cession of their rights.

5th. That Governor FitzRoy in 1844 admitted separate rights of ownership in the families of the Ngatiawa tribe, and expressly promised to purchase such rights whenever they should be offered for sale on reasonable terms.

6th. That Governor Sir George Grey in 1847 refused to admit any Seignorial or even Tribal Title in the Ngatiawa, and determined to resume the land at Taranaki for the Crown after ample reserves should have been made for the resident and absentee Native claimants, and after a reasonable price per acre for the residue should have been offered to them.

7th. That the right of the respective hapus and subdivisions of the Ngatiawa to cede their proprietary rights to Her Majesty, has been repeatedly and expressly recognised in the acquisition of various blocks of land at Taranaki during a period of more than sixteen years, and has been the basis of every cession of territory there to Her Majesty since 1844.

8th. That the acceptance by me of the land offered for sale by two hapus or sections of the Ngatiawa, representing the Ngatituaho and Ngatihinga as well as a portion of the Puketapu branches of that tribe, whose act was confirmed and ratified by a large number of absentee owners at other places, was in accordance with the precedents upon which the acquisition of land from the Ngatiawa at Taranaki had invariably proceeded.

9th. That the proprietary rights of any owner who may not have assented to this sale, have been

expressly saved, and that any one who has a valid claim of ownership may retain his land, or cede it to Her Majesty, as he pleases. GOVERNOR'S DESPATCH,  
4th Dec., 1860.

10th. That the insurrection of Wiremu Kingi is not a legitimate resistance to an attempt forcibly to eject him from an acre of land to which he has a just right, but is the result of a League which exists among certain Tribes forcibly to prohibit any further alienation of Territory to the Crown, even by the rightful owners thereof who may be willing to sell.

118. I have thus answered that part of Mr. Fortescue's questions which enquires how far the existence of the "Seignorial Right" now claimed for the Chiefs has been recognised by the British Government or justifies the proceedings of Wiremu Kingi.

119. With respect to the other part of the enquiry, whether there are reasons apart from the Treaty of Waitangi in favour generally of the recognition of such a right, and whether it ought therefore to be admitted in future transactions, I beg to make the following brief remarks.

120. In a pamphlet which I received last night, written by Sir William Martin, late Chief Justice of this Colony, he says: "This Tribal Right is clearly a right of property, and it is expressly recognised and protected by the Treaty. That Treaty neither enlarged nor restricted the then existing rights of property. It simply left them as they were." It is precisely this principle which has been recognised in every cession of territory since the Treaty. But it must be remembered that the ancient customs of the Natives with respect to land had been materially affected by engrafting upon them the new practice of alienation, since the first irregular settlement of the country. We found that the Natives had no fixed rules applicable to all the tribes and to every locality, and we adopted as our guide in each district the customs which in that district were in force among the people themselves, where the right of alienation had followed the old right of property whether in the tribe or the family.

121. To attempt now to introduce a new kind of right distinct from that of property, would require definitions involving in practice a really insuperable difficulty. Assuming any right distinct from a right of property in the soil to be admitted in a Chief, to assent to or forbid the sale of land where the real owners are willing to sell, it would still have to be determined in whom that right should vest. The Government would first have to decide what was the "Tribe," and who was the "Chief" of the Tribe. Failing this, they would have to decide what were the respective subdivisions of the tribe, and who were the Chiefs of those subdivisions. I have no hesitation in saying that the relations between the Chiefs of the several Tribes of New Zealand are not such as would justify the British Government in arbitrarily coming to such decisions, and that at present it would be a simple impossibility to do so with any hope of obtaining the assent of the Native people. But apart from this inherent difficulty, I am of opinion that for the British Government now for the first time to announce, that a right would be admitted in any Chief whatever, distinct from his right of property in the soil, to prohibit the cession of territory to Her Majesty by the real owners of the land, would be as unjust as it would be impolitic. It would sanction the objects of the Land League, which declares that no land shall be allowed to be sold, even though the real owners should not have joined the League: it would strengthen the confederacy which, based upon the League, aims at the subversion of the Queen's authority and the establishment of an independent nationality: it would effectually discourage those loyal subjects of Her Majesty of the Native Race who rest upon the guarantee of their proprietary rights in the Treaty of Waitangi: and it would render all but impossible any success in the efforts which have been made during so many years, to induce the Natives to convert their Tribal Tenure into individual property secured by a Grant from the Crown.

122. I can only, therefore, in conclusion, express my conviction that the proper course for Her Majesty's Government to pursue in the future, is that which has been steadily followed in the past: namely, to continue to deal with the Chiefs or the proprietors of the soil, according to the custom existing among the Natives themselves in each particular district in which cession of territory may be in contemplation, and in the manner which best accords with the rights of property actually in force among them. I look forward, however, to the time when the Natives will be prepared for the establishment of a tribunal in which their varying customs may acquire some settled form, and to the decisions of which they will yield a peaceful submission.

123. I transmit herewith a Memorandum by my Responsible Advisers on the same subject.

I have, &c,

T. GORE BROWNE.

His Grace the Duke of Newcastle,  
&c., &c., &c.

#### MEMORANDUM BY HIS EXCELLENCY'S MINISTERS.

Auckland, 3rd December, 1860.

His Excellency's Reply to Mr. Fortescue's Dispatch of 27th August, 1860, deals so thoroughly with the question of the Territorial rights of the Native Chiefs, that little is left to be said on the subject. *Native Affairs.*

2. The main question proposed by Mr. Fortescue is—Whether or not there exists in the Chief or Tribe "a right, distinct from one of property, to assent to or forbid the sale of any land belonging to members of the Tribe in cases where all the owners are willing to sell."

GOVERNOR'S DESPATCH,  
4th Dec., 1860.

3. The answer to this question must be sought for in the history of land purchases since the settlement of the country by Europeans, and not in fanciful deductions from what is known or conjectured about the original state of the New Zealand Tribes.

4. The settlement of the country and the establishment of British sovereignty of necessity effected a great change in the *status* of Tribes and individuals of the Native race. The New Zealand Tribes, in their original state, were so many separate nations. The assumption of the sovereignty of the islands, under the provisions of the Treaty of Waitangi, extinguished the separate nationalities, together with the rights flowing out of them. At the same time the Treaty saved all Proprietary, as distinguished from National rights, and (subject to Her Majesty's right of pre-emption) confirmed to the Native land owners the power of alienation which they had already begun to exercise.

5. It is very doubtful whether, previously to the arrival of Europeans, the Aborigines had any notion at all of the absolute alienation of territory. Certainly they did not regard land as a marketable commodity; and whatever alienations may have taken place amongst themselves were of a totally different character from such as followed upon the settlement of the country.

6. The alleged right of restraining alienation cannot be deduced from the practices of a time when the Tribes were little nations constantly engaged in mutual hostilities, and when such a thing as a sale of land, in our sense, had not been heard of. And it would be foolish to seek precedents for the regulation of dealings with Europeans, in the usages of a period when there were no Europeans in the country. The right of alienation was a novelty unprovided for in the old Tribal economy, and the conditions of the exercise of the right were of course novel also. The subject therefore can receive no real illustration from the investigation of Native ideas and customs prior to the advent of Europeans; but the inquiry to be made is simply this, Whether or not has the alleged right of control been recognized or asserted since the settlement of New Zealand? If not, no such right can be supposed to exist.

7. The land purchases made of the Natives of New Zealand are divisible into two great classes—First, those made of leading Chiefs, representing whole Tribes (*Iwi*); secondly, those made of Sub-Tribes (*Hapus*), or of families or other comparatively small groups of individuals.

8. The former class of purchases comprises those cases in which a large unoccupied territory has been disposed of by the conquerors—as in the instance of the sale of the Middle Island by the Ngatitōa Chiefs, and of Taranaki by Te Whero Whero and his brother.

9. In most, perhaps in all, of the cases belonging to the second class, the land sold has been territory actually divided amongst and appropriated by the different *hapus* or families of the Tribe. By far the greater number of purchases belong to this class. All the purchases made to the North of Auckland, whether by Government or by individual Europeans, belong to it. So do the purchases made of the Ngatikahungunu in the Hawke's Bay District and the Wairarapa Valley, of *hapus* of the Waikato Tribe in the neighbourhood of Whaingaroa or Raglan, and of the Ngatiawa at Port Nicholson and Taranaki.

10. Neither class of purchases affords any precedent of the exercise or assertion of the supposed right. In sales of vacant territory, the principal Chiefs have themselves been the vendors. In sales of occupied territory, an absolute and unquestioned right of alienation has always gone along with the right of occupancy, which is generally exclusive in certain *hapus* or families, and not common to the whole Tribe.

11. It thus appears that the unrestricted right of alienation has, in practice, accompanied the right of property, whether subsisting in the Tribe or in any smaller Native community; and that no seigniorial or tribal right of controlling sales by the Native owners, has ever been exercised or in anywise asserted since the commencement of land purchases in New Zealand. His Excellency's Responsible Ministers are therefore of opinion that the main question proposed by the Secretary of State should be answered in the negative.

12. Whilst arriving at this conclusion respecting a matter of fact, Ministers desire to guard against being supposed to maintain the opinion, that such practical influence as the principal Chiefs may hereafter attempt to exercise in the matter of land sales, ought to be disregarded. The distinction between right and power is still faintly drawn by the Natives themselves; and—dealing with them as in some sort a foreign power—it will be generally prudent to respect any authority or influence established amongst them *de facto*, without too nice an enquiry whether that authority and influence exist strictly *de jure*. The political power of the Chiefs is still great, and the jealousy of European progress on the increase; so that it is probable that in many cases the influence of the Chiefs may be employed to check the exercise by Native land owners of those independent rights of alienation which they have hitherto enjoyed. Such a use of the political authority of the Chiefs certainly ought not to be encouraged. At the same time it would often be imprudent to press the completion of a purchase in the face of the opposition of any important Chiefs nearly connected with the Natives offering to cede territory.

13. As regards the remaining question, Whether the particular claim of William King to interfere with sales in the New Plymouth district was such as it would, on any ground, have been right or politic to admit; the Governors Despatch has exhausted whatever still remained to be said. His Excellency's Ministers feel that it cannot be necessary for them to do more than state summarily their own views. They think that any such recognition would have been unjust to the Native proprietors, and (seeing that William King's pretensions and intrigues have for years convulsed the district) to the European settlers also; that it would have been an abandonment of the principles laid down and acted upon by successive Governors for the settlement of the Ngatiawa claims in Taranaki,

GOVERNOR'S DESPATCH,  
4th Dec., 1860.  

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and a violation of the express promise made to the assembled Natives at New Plymouth by the present Governor in March 1859 ; that, far from putting an end to, it would have aggravated, the feud which has already occasioned so much bloodshed amongst the Natives and has so frequently disturbed and imperilled the settlement of New Plymouth ; that it would have rendered the intervention of the British Government to establish peace in the district more difficult, but would by no means have obviated the ultimate necessity for such intervention ; in fine, that it would have been, under the peculiar circumstances of the case, the dereliction of a plain duty, and an act of weakness unattended by any advantage beyond the postponement of a difficulty which must have soon recurred in some aggravated form.

C. W. RICHMOND.

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XIX.—EXTRACTS OF DESPATCH FROM GOVERNOR SIR GEORGE GREY TO SECRETARY OF STATE,  
DATED NEW PLYMOUTH, 2ND MARCH, 1847.

GOVERNORS' DECISIONS.

Governor Grey,  
2 March, 1847.

In the course of yesterday and this day I have had interviews with several bodies of Natives upon the subject of the claims of European subjects of Her Majesty to various tracts of land in this district, and I regret to state that the majority of these interviews have been of the most unsatisfactory nature.

It will be in your Lordship's recollection that Mr. Commissioner Spain, who was specially appointed in England for the purpose of investigating claims to land in New Zealand, after minute inquiries made upon the spot, decided that a tract of 60,000 acres of land had been purchased at Taranaki, in a *bonâ fide* manner, for the use of British subjects. Subsequently to this decision of the Commissioner, my predecessor thought proper to set aside the award that had been made, because (as I understand his decision) the claims of certain absentee Native proprietors had not been extinguished at the time the original payment was made.

My predecessor entered, upon this account, as I believe, into a new arrangement, by which a block of about only 3500 acres was immediately secured to the Europeans. But I do not understand, nor can I think, that he intended that the original purchase should be set aside, in as far as those Natives were concerned who had originally sold their land in a *bonâ fide* manner, and received payment for it. To my surprise, however, yesterday some of the Natives, who were the parties to the original sale, and who had been amply paid for the land they had disposed of, informed me that they intended to stand by my predecessor's arrangement, and to repudiate the first transaction, and that they would neither permit the Europeans to occupy the land they had sold them, nor would they even do so upon receiving another payment; but they insisted upon the Europeans confining themselves to the block of 3500 acres.

In the same manner the majority of the Natives whom I have seen to day (none of whom were parties to the original sales, but were principally the inhabitants of Waikanae and the country in its vicinity) stated, in the first instance, that they would not, upon any terms, permit the Europeans to move beyond the block of 3500 acres. And, upon my pointing out that they were actual occupants of large tracts of land along Cook's Straits, that they did not use any land in the neighbourhood of Taranaki, and that they could not remain here upon account of their enemies, if it were not for the presence of the Europeans, they stated that some of them intended to come and live here themselves, and that they had plenty of Europeans here. I then pointed out to them that the great majority of them had not, until recently, advanced any claim to this land, although they were quite aware that the Europeans intended to purchase it (which they had even recommended them to do), as also that the Europeans had eventually bought it and occupied it; after which they had opened up the country by roads, built houses, cultivated lands, &c., and spent large sums in the improvement of the district; and that, when this had all been done, the Natives put forward their claims, and turned the Europeans off. They merely replied, that it was their land, and they would do as they thought proper with it.

Since that time, various individuals of the Ngatiawa tribe, (which is a very numerous tribe) anxious to share in the expected payment, have been locating themselves temporarily at Taranaki; and every separate family of the tribe has been sending up some persons to look after their interests. These individuals have been quarrelling amongst themselves regarding their respective claims; and in order that there might be much to pay for, have prevented the Europeans occupying any additional land, although many hundred thousand acres of the richest soil are lying perfectly neglected and useless, whilst many European families have been left in comparative want. Indeed, the inability of the Natives to adjust their respective claims, now makes them unwilling to allow the land to be sold at all, and they constantly assert that those Natives who wish to sell land, have no right to dispose of it.

Upon taking a review of the whole of these circumstances, together with our isolated and weak position in this portion of New Zealand, the only arrangement I thought could be advantageously made was, to acquaint the Natives that I should order, in the first place, that the most ample reserves for their present and future wants should be marked off for the resident Natives, as well as for those who were likely to return to Taranaki; but that the remaining portion of the country, in that district should be resumed for the Crown, and for the use of the Europeans; that, in the fulfilment of the promises made by my predecessor, the value of the resumed land, in its wild and defenceless state, should be assessed by a Commissioner, and that a Court should then be appointed to inquire into the Native titles to the whole, or portions, of the district so resumed; and that those Natives who established valid claims to any parts of it should receive the corresponding portions of the payment to which they would become entitled.

But very few of the Natives seemed disposed to assent to this arrangement; but they distinctly understood that it was my intention to enforce it. I trust that it may meet with your Lordship's approval, as the best which could, under circumstances of such difficulty, be made, and as one which, whilst it ensures the interests of Her Majesty's European subjects, inflicts no injury on Her Majesty's subjects of the Native race; although I fear that these latter, now that their cupidity has been so strongly excited, may, if they think they are strong enough, endeavour to resist it by force of arms.

I have, &c.,

G. GREY.

The Right Hon. Earl Grey.

[In Parl. Pap., December 1847, p. 2.]

GOVERNORS' DECISIONS.

P.S.—I have the satisfaction of being able to state to your Lordship that, since writing the foregoing despatch, I have ascertained that the whole of the Ngatiawa tribe, with the exception of one family of it, named Puketapu, have assented to the arrangement detailed in this despatch, and that several European settlers have already been put in possession of their lands. I have now every hope that the Puketapu family will shortly follow the example of the rest of the tribe. I think that a consideration of their own interests will lead them to take this step; but should they adopt and hostile proceedings against the settlers, their influence is so trifling, that they cannot cause any great amount of mischief, although certainly they may occasion great expense and trouble to the Government. I will, in the meantime, take care that every precaution for the protection of the settlers is adopted.

G. G.

[*In Sess. Pap. Gen. Assembly 1860, E. No. 2.*]

XX.—INSTRUCTIONS FROM GOVERNOR SIR GEORGE GREY TO COMMISSIONER MCLEAN, DATED 5TH MARCH, 1847.

March 5, 1847.

Governor Grey.  
Instructions to McLean  
5 March, 1847.

1. Mr. Commissioner Spain reported, that the New Zealand Company were entitled to a Crown Grant of a block of 60,000 acres, lying within certain defined limits.

2. The Governor (Captain Fitzroy) did not take the same view of the question as Mr. Spain, and would not confirm that gentleman's award; on the contrary, in November, 1844, he sanctioned a totally new purchase of a small block of land, of 3500 acres, by the Agent of the New Zealand Company, and he made certain promises to the Natives, which have induced many of them to return to lands which, they state, they understood Captain Fitzroy to guarantee to them in permanent possession; on these lands they have now extensive paha and cultivations included in the block awarded by Mr. Spain.

3. Thus, on the one hand, the New Zealand Company claim the rights (if any) which they may have acquired under Mr. Spain's award; while, on the other hand, the Natives claim the disallowance of that award by the Governor, the rights which the late Governor promised to maintain to them in all their integrity, and the fact of their present occupation of the land under the sanction of the Governor.

4. It is proposed to evade, in as far as practicable, the various difficulties which have arisen under these conflicting circumstances, by in the first place reserving to the several tribes who claim land in this district, tracts which will amply suffice for their present and future wants; and 2ndly, resuming the remaining portion of the district for the European population, and when the extent of the land so resumed has been ascertained, to determine what price shall be paid to the Natives for it; this amount not to be paid at once, but by annual instalments, extending over a period of three or four years; at the end of which time it may be calculated that the lands reserved for the Natives will have become so valuable as to yield them some income, in addition to the produce raised from those portions of them which they cultivate.

5. Every effort should be made to acquire for the European population those tracts of land which were awarded to the New Zealand Company by Mr. Spain; and where blocks are reserved for the Natives within these limits, portions of land of equal extent (greater, if possible) must be purchased without the limits for the New Zealand Company.

6. If possible, the total amount of land resumed for the Europeans should be from 60,000 to 70,000 acres; a grant of this tract of land will then be offered by the Government to the Company.

7. The price paid for any portion of land should not, under any circumstances, exceed 1s. 6d. per acre, and the average price should be below this amount. The greatest economy on this subject is necessary.

8. No time should be lost in completing these arrangements.

9. Two surveyors and parties, upon the most economical scale, must be engaged for this purpose. The police should, in as far as practicable, be employed on it.

10. This arrangement should be carried out, in the first instance, with those parties who have given their assent to it, including the Natives who have offered a tract of land for sale to the South of the Suga Loaves.

11. Where land without the block awarded by Mr. Spain, is now acquired, and required for immediate use by the Company's settlers, sections must be surveyed for them.

12. Those Natives who refuse to assent to this arrangement must distinctly understand that the Government do not admit they are the true owners of the land they have recently thought proper to occupy.

13. Mr. McLean is intrusted with the conduct of these arrangements, but in all matters of importance he must consult with Captain King, and acquaint him with the steps which he propose, to take.

14. In reserving the blocks intended for the Natives, the surveyed lines of the Company should in as far as practicable, be observed; but, whenever there is a necessity for a departure from this course the line must be run as Mr. McLean thinks proper.

G. GREY.

[*In Parl. Pap., Dec. 1847, p. 13.*]

## XXI.—EXTRACTS FROM LETTERS OF GOVERNOR SIR GEORGE GREY.

GOVERNORS' DECISIONS.

Government House,  
Auckland, 27th April, 1847.

I received last night a letter from Major Richmond informing me that the Natives at Petoni Pah were engaged in putting together nine large canoes capable of holding for a long passage, about sixty persons each.

I consider it to be a matter of the utmost importance for the protection of the isolated settlement of Taranaki and its undefended settlers, that the Ngatiawa tribe should not be allowed to proceed for the present to that place. \* \* My own opinion also is that these canoes are not intended solely for the conveyance of E. Puni's own tribe: they are capable of conveying about 540 persons, whereas E Puni's tribe consists of but 200 souls, including men, women, and children. I believe that they will be moved out of the harbour one by one, as opportunity may offer, to other places inhabited by the Ngatiawa tribe \* \* I should therefore feel much obliged to you if you, in conjunction with Major Richmond, would require E Puni to dismantle these canoes in such a manner that they may be rendered unfit for the voyage to Taranaki; at the same time, injuring the canoes themselves as little as possible: in fact the best plan would perhaps be to require him to take them to pieces again. If E Puni should refuse to comply with the wishes of the Government in this respect, my opinion is that if his conduct is such as to afford reasonable grounds of suspicion, the canoes should be seized by the Government, and either be retained in their possession until the land question at Taranaki is settled, or that they should be destroyed, as may be thought most advisable; and E Puni should be distinctly warned that these consequences will follow from his refusing to comply with the request of the Government.

G. GREY.

Lieut.-Colonel McCleverty,  
&c., &c., &c.,  
Wellington.

Government House,  
Auckland, 27th April, 1847.

In reference to a letter you addressed to the Colonial Secretary on the 19th inst., on the subject of nine large canoes which were being put together by E Puni's people in his Pa, I have the honour to inclose a letter which I have this day addressed to Lieut.-Colonel McCleverty upon this subject, which after having perused, you will be good enough to deliver to him; I have also to request that you will consider that letter as addressed jointly to yourself and Lieut.-Colonel McCleverty, and that you will take such steps with regard to the subjects adverted to in it, as may appear to you necessary.

G. GREY.

His Honor the Superintendent,  
Wellington.

Government House,  
Auckland, 30th April, 1847.

The Senior Naval Officer on this station, having been good enough to direct Captain Stanley to communicate frequently with our settlements at Wanganui and Waikanae, more particularly the latter place, both for the purpose of watching the movements of Rangihacata, and preventing armed canoes going to the North, and having further requested Captain Stanley to proceed in the "Calliope" to Kapiti, making that place his principal rendezvous: it will be your duty to give the requisite orders for securing to Captain Stanley the greatest facility for speedy communication with Wellington from Waikanae by means of the Police Station at the latter place and at Porirua, and I shall feel much obliged to you if you would also request Lieut.-Colonel McCleverty to give all the assistance in his power to promote this most desirable object.

G. GREY.

His Honor the Superintendent,  
Southern Division.  
[Not before published.]

Governor Grey,  
30th April, 1847.

## XXII. EXTRACT OF A LETTER FROM THE SUPERINTENDENT OF THE SOUTHERN DIVISION TO CAPT. LAYE, 58TH REGT., COMMANDING AT WANGANUI.

28th April, 1847.

Enclosed is a description of several routes by which the Ngatiawas can go inland from Waikanae to Taranaki, which I have forwarded for your information. I expect to receive further intelligence on the subject.

Major Richmond,  
28 April, 1847.

M. RICHMOND.

The Road by which the Ngatiawa of the North shore of Cook's Straits may reach Waitara without meeting any party of Military but such as may be stationed at Waikanae, is the path through the Ngatimaru district.

GOVERNORS' DECISIONS.

From Waitara to Ngatimaru there are three paths, one by Huirangi and the ancient pa of Pukerangiora, nearly impracticable in winter, from the depth and rapidity of the Manganui, a large tributary of the Waitara, which must be forded. A second,—and according to the Natives the best—commencing nearly opposite to the Mamaku pa; and a third turns inland North of Waitara at Taniwa. By either of these lines the the river Wanganui may be reached from New Plymouth in two days, the distance according to the Rev. R. Taylor, being only thirty miles from the point in the Ngatimaru country, when the Waitara is left, to Taungaraka on the Wanganui, one day's journey inland of Petre.

To avail themselves of this road the Ngatiawa will require some assistance and canoes from the Natives of Wanganui, and an inland path by the Wangaihu, by which they may avoid the Garrison at Petre. Their grand objection to it would be the loss of their own canoes. Taungaraka once passed, they may reach the strong old pa of Manukorihi on the Waitara, without meeting a soldier.

[Not before published.]

XXIII.—EXTRACT FROM LETTER OF THE SUPERINTENDENT OF SOUTHERN DIVISION TO GOVERNOR SIR GEORGE GREY, DATED 26TH JULY, 1847.

Wellington, July 26, 1847.

Major Richmond,  
26 July, 1847.

When I was up the coast last week, I was met at Waikanae by a large concourse of the Ngatiawa tribe, including William King, and many of the most influential chiefs, to whom I made known your Excellency's views relative to their meditated move to Taranaki, and was much gratified to find that no disposition existed, on their part, to act in opposition to them; their demeanour was quiet, respectful, and exhibited no symptom of annoyance with, or resistance to, the Government. William King stated, that although they were still bent upon going to that district, yet they repudiated the idea of doing so by stealth, or before consulting with the Governor, and learning the time he would permit of their removal; adding, that the Ngatiawa tribe had always been friendly to the Europeans, and it was their desire to continue on the same amicable terms they have hitherto been. I, however, much incline to the opinion, that the migration, if it ever takes place, will be very partial: probably merely William King and his followers, as I found many indifferent, and some altogether averse, to leaving Waikanae. At Queen Charlotte's Sound, also, it appears the principal chief, Ropata, has not yet given his consent, and, in this neighbourhood, the Ngatiawas are cultivating as usual, and now show no symptom of moving. William King, on behalf of those at Waikanae, urged strongly the purchase by Government of the district: and when I mentioned that I did not think your Excellency contemplated making further purchases of land at present, they evinced the utmost anxiety (engendered no doubt by the scarcely concealed intention of the Ngatitao tribe to take possession of the land when they leave it) that a promise should be given, if the Government did not wish to obtain the district when the time was decided upon for their departure, that they should be the parties negotiated with, and to whom the purchase-money should be paid, whenever it was considered expedient to acquire the land.

M. RICHMOND.

[In Sess. Pap. Gen. Assembly, 1860, E. No. 2.]

XXIV.—MEMORANDUM OF AN ARRANGEMENT PROPOSED TO BE ENTERED INTO WITH THE NATIVE LAND CLAIMANTS IN THE TARANAKI DISTRICT.

Governor Grey.  
Further Instructions,  
1847.

It is proposed that the whole of the Natives having claims to land lying between Ngamotu and the Waitara (with the exception of the Puketapu Natives now resident within this block) should, if possible, be induced to abandon their claims without further enquiry, and to locate themselves on the North bank of the Waitara.

These Natives may be divided into two classes—

These now resident on the South bank of the Waitara.

Those who are shortly expected to arrive here from the Southward.

It is proposed that the first of the above classes should be induced to agree to abandon their present cultivations within a period of three years, and then to remove to the North bank of the Waitara, if they remain within the district.

The second class should be induced to proceed at once to the North bank of the Waitara, there to locate themselves on such sites as they may select—relinquishing all pretensions to any lands to the South of that river.

This arrangement is regarded as one in every respect so likely to promote the future peace and prosperity of the country, that the Government, in order to induce the Natives to accede to it, will offer the following advantages to them.

It will, without further enquiry, admit the claims of the parties acceding to this arrangement, to the lands lying immediately to the north of the Waitara.

Upon all pretensions being at once relinquished to all lands to the South of the Waitara, the Government will, without further enquiry into such pretensions to these lands, admit that from the prompt settlement they are making of this question, they are entitled to such compensation as may be agreed on between themselves and the officers of the Government.

The Government will then also recognise and permit them immediately to dispose of their claims at Waikanae and Tōtaranui for such compensation as may be agreed on.

The compensation in both cases to be paid in annual instalments spread over a period of not less than three years.

The Government will survey regular village sites on the North bank of the Waitara for Native villages, at such points as they may select, and will endeavour to see that the amount of compensation paid to the Natives shall be so expended as to secure their permanent advancement in civilisation and prosperity.

[*In Sess. Pap. Gen. Assembly, 1860, E. No. 4.*]

XXV.—LETTERS FROM WIREMU KINGI TO THE GOVERNOR.

Waitara, February 11, 1859.

FRIEND THE GOVERNOR,

Salutations to you. I have a word say to you and to Mr. McLean. Do you hearken to our Runanga respecting the land. Do you hearken: The boundary commences at Waitaha, thence along the boundary of Tarururangi to Mangoraka, thence on till it reaches Waiongana;—it there ends; again it proceeds along the course of the Waiongana stream till it reaches the boundary of Paritutu, where that ends. Again it commences at the mouth of the Waitaha, thence along the coast line in a Northerly direction to Waiongana, Waitara, Turangi, Waiau, Onaero, Urenui, Kaweka, Kipuriki, Waiti, Paraeroa, Karakaura, Te Kawau, Poutama, and Mowhakatino. The boundary of the land which is for ourselves is at Mokau. These lands will not be given by us into the Governor's and your hands, lest we resemble the sea-birds which perch upon a rock: when the tide flows the rock is covered by the sea, and the birds take flight, for they have no resting place. I therefore be thought me of what was said in former times about holding land. My word is not a new word, it is an old one; Governor Hobson, Governor Fitzroy, and Governor Grey have all heard it, and now that you have come, O Governor Browne, I send the same word to you that I sent to the Governors, to hold back my land. You, O Mr. McLean, are aware of that word of mine when you first came here and saw me, you heard the same word from me, "I will not give the land to you."

Wiremu Kingi,  
11 Feb. 1859.

I have therefore written to the Governor and to you to tell you of the Runanga of this new year, which is for withholding the land: because some of the Maoris still desire to sell land, which causes the approach of death;—it is said that I am the cause, but it is not so, it is the men who persist; they have heard, yet they still persist.

If you hear of any one desiring to sell land within these boundaries which we have here pointed out to you, do not pay any attention to it, because that land-selling system is not approved of. This is all.

Salutations, O Governor Browne, to you and Mr. McLean, and do you write and send me your love. It is ended.

From your friend,

WIREMU KINGI WHITI.

ASSISTANT NATIVE SECRETARY TO WIREMU KINGI.

Auckland, April 2, 1859.

FRIEND WIREMU KINGI,

Salutations to you. Word has come from Te Teira offering for sale his piece of land at Waitara. The Governor has consented to his word: that is, as regards his own individual piece, not that which belongs to any other persons. The Governor's rule is, for each man to have the word (or say) as regards his own land; that of a man who has no claim will not be listened to. This is merely written to let you know the word of the Governor in answer to Te Teira's and Te Retimana's letter.

The Governor,  
2 April, 1859.

From your friend,

TE METE (T. H. Smith).

To Wiremu Kingi, Taranaki.

WIREMU KINGI TO THE GOVERNOR.

Waitara, 25th April, 1859.

FRIEND,

Salutations to you. Your letter has reached me about Te Teira's and Te Retimana's thoughts. I will not agree to our bedroom being sold (I mean Waitara here), for this bed belongs to the whole of us; and do not you be in haste to give the money. Do you hearken to my word. If you give the money secretly, you will get no land for it. You may insist, but I will never agree to it. Do not suppose that this is nonsense on my part; no, it is true, for it is an old word; and now I

Wiremu Kingi,  
25 April, 1859.

GOVERNORS' DECISIONS.  
—

have no new proposal to make, either as regards selling or anything else. All I have to say to you, O Governor, is that none of this land will be given to you, never, never, not till I die.

I have heard it said that I am to be imprisoned because of this land. I am very sad because of this word. Why is it? You should remember that the Maoris and Pakehas are living quietly upon their pieces of land, and therefore do not you disturb them. Do not say also that there is no one so bad as myself.

This is another word to you, O Governor. The land will never, never be given to you, not till death. Do not be anxious for men's thoughts, This is all I have to say to you.

From your loving friend,

WIREMU KINGI WHITI.

To His Excellency the Governor.

[*In Sess. Pap. Gen. Assembly, 1860.*]

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## APPENDIX C.

EXTRACTS FROM REPORTS AND SPEECHES OF CHIEF COMMISSIONER  
MCLEAN AND DISTRICT COMMISSIONER PARRIS.COMMISSIONERS' RE-  
PORTS AND SPEECHES

## 1.—SPEECH OF MR. MCLEAN AT THE NGARUAWAHIA (WAIKATO) MEETING, MAY, 1860.

*D. McLean, Esq.*, inquired, "When did that thing of which you speak [the King's flag] reach Wairarapa? Wairarapa is mine, it has been sold to the Queen, and is in the hands of Europeans. The men that took the flag to Wairarapa are worthless characters, over head in debt. They have no further claim or right to dispose of that land. This is a trick of yours, in order to obtain adherents. You make false statements, and say that men have joined your movement, who have not done so. You have been unjustly censuring the Governor about Waitara. I promised to give you a history of the case; I will now do so; I am well acquainted with it; I know all about it from the beginning. When Europeans first went to Taranaki, they found the remnant of the tribes you had conquered. Wiremu Kingi Te Rangitake was not there. He had left the land and never expected to return to it. The men you spared sold it to us; they said, "Give us pakehas and we will give them land." You also (Waikato) sold it to us in all its boundaries; therefore I say that land has been fully ceded and given into our hands in open day light. You (Waikato) gave it to us openly, and how can you repudiate your own act?—an act performed by your great Chiefs Potatau and Kati. They asked for payment because their friends had fallen there; we gave it to them, and they ceded to Governor Hobson all their claim. After this the Ngatimaniapoto and Wiremu Nera released their slaves, and sent them to re-occupy the land from whence they had dragged them. But Rangitake was at the South, and never thought about returning to Waitara. It was Te Whero Whero who invited him back; Tāonui Hikaka added his word, and Rangitake returned. When the people had returned, each man sold his own land, without reference to Rangitake. You wish to know how the matter stands between Rangitake and Teira. I will tell you. When the former thought of returning to Waitara, he sent to Teira and said, "Let us return to Waitara; you take one side, I will take the other, as Waikato gives us permission to return." Rangitake wished to occupy the north bank, to protect himself against Waikato, and was prohibited by Sir George Grey from settling on the south side; but he built a pa on the south bank by permission of Teira's father, and soon after his return began to fight about the land. Men were killed in battle; some were murdered in cool blood. Then two families (*hapus*) said 'We will sell our land at Waitara,' and they offered it for sale, but the Land Commissioner was not in haste about it; he let it stand. Then the Governor went to Waitara, and land was offered. One got up and said, 'I desire to sell my piece,' and another got up and said 'I wish to sell mine; I do not want to sell what is another's, but my own.' 'I (McLean) replied, 'We cannot purchase those small pieces.' Then Teira said to Wi Kingi, 'Listen, I am about to offer mine: Governor, here is mine;' but the Governor did not speak. Teira said again, 'Give me your word, Governor; McLean, will not you and the Governor consent to mine?' Wi Kingi sat there all the time and heard. When Teira had urged it once, twice, thrice, four times, the Governor said, 'If it be an undisputed claim, I accept it.' Then Teira laid down his *parauai* (mat), but Wi Kingi did not take it away; he only called out and said, 'Waitara shall not go,' and went away. But we did not take it at once. You say we were hasty, but we were not. Eight months passed over before the bargain was closed. We inquired of all the people, and could not find any rightful claimants but Teira and his friends. We said 'If Wi Kingi has a piece in this block, we will not have it; we will leave it outside.' Do not say, then, that the Governor made haste to buy it: he took time enough to investigate the claim. You have said that one man sold the land, but that is wrong; there were seventy persons consenting to the sale. After this I went South, and visited the Middle Island. I saw Ropama Te Ore, of Arapaoa. I said to him, 'Waitara is offered for sale:' he asked by whom? I inquired of him, 'Is it Kingi's?' He said, 'No, his land is on the other side of Waitara; that piece is mine, let me have the money for that.' I replied, 'No, I am not at present clear about the ownership.' 'Let it be settled; give the payment to me,' he said again. 'I do not understand it yet,' I said, 'but give me the names of the real owners.' You have then unjustly accused the Governor. He has done no wrong. The land was offered to him, he would not consent at once, but took time to obtain information on the character of Teira's claim; he had said he would buy no land the ownership of which was disputed, neither would he allow any man who wished to sell his own land, to be prevented by another. He has kept his word. Whose land has he taken? whose rights has he violated? But you have allowed yourselves to be deceived by false statements. You have charged the Governor with making haste to go to war, but had you waited to hear and understand the subject, you would not have done so. The Governor has no wish for war, and would not take up arms but in a just cause, and then not till all other means had failed."

To this address the meeting listened with great attention; but, as the evening was advancing, Te Heuheu arose and interrupted Mr. McLean, saying *Ka po* (it is night). The probability is that he saw how the remarks were telling on Waikato; and Mr. McLean broke off, promising to finish the next day. Many of the Waikato Chiefs were heard to say, *Ka tika te korero a Makarini, ka nui te marama*—"The speech of Mr. McLean was quite straight; great was its light." Potatau

*D. McLean, Esq., (at  
Ngaruawahia),  
May, 1860.*

COMMISSIONER'S REPORTS AND SPEECHES.

also corroborated the statements he had made, and was displeased that Te Heuheu should have interrupted him. Several of the Chiefs expressed their displeasure, and Ngatihaua offered to light large fires that he might have an opportunity to complete his statement that night, as they intended to leave early next morning. It was, however, arranged that he should finish next day.

On the 29th, the Natives were all busy preparing to erect the flagstaff, and Ruihana tried in vain to obtain a meeting to give Mr. McLean an opportunity of finishing his address. Mr. McLean waited till noon, but there were no signs of a gathering. He then told the Natives he understood their motives in delaying to assemble, and having given them a reasonable time he should wait no longer. He struck his tent and departed.—[*Pamphlet by Rev. T. Buddle, 1860.*]

## 2. EXTRACTS FROM SPEECH OF MR. M'LEAN AT THE CONFERENCE OF CHIEFS AT KOHIMARAMA, JULY 1860.

D. McLean, Esq., (at Kohimarama), July, 1860.

I shall not speak of Wiremu Kingi's visit to Ngapuhi, and of what passed between him and Potatau's younger brother; they had a difference about that land. Kati said to Wiremu Kingi, "That land will be sold to the Governor." Wiremu Kingi replied, "Then I will sell the Waipa Valley as a payment for my slain." (Alluding to an encounter which took place between the Ngatiawa of Taranaki and the people of Waipa.) On Kati's return from the North he repeated what had passed between himself and Wiremu Kingi to the old Chief Potatau, just now deceased. Soon after, Potatau went to Kapiti with Governor Hobson. Afterwards, he said to the Governor, "Friend, listen to me, Taranaki is mine: my hand holds it. I wish to sell it to you." The window of the room in which this conversation took place happened to be open, and some papers which had been lying on the table were scattered by the wind. The old Chief collected them, and replacing them on the table, put a weight upon them: and addressing the Governor, said, "This is like Taranaki: if I press the Taranaki people, they will remain quiet. See, O Governor, when I put a weight upon them they are still: they cannot move." Time passed on, Governor Hobson considered the matter, and after having done so, consented to the purchase from Waikato. Here is the deed of transfer. (Deed read.) The signatures to this deed are those of Te Kati, who lies buried at Mangere, and of Te Wherowhero, just now deceased at his own place at Waikato. Now, in accordance with your customs, this land was completely forfeited and gone. Of the men who once possessed it, some had been brought as slaves to Waikato; some had gone to Kapiti. It was a complete abandonment of a conquered territory. \* \* \*

The Taranaki people are now asserting a claim to territory which has become the property of the Government. Waikato has taken up arms to hold that which their own Chiefs gave to the Europeans; spreading it forth for their acceptance in the light of day and under the shining sun of heaven. Had it been territory not previously touched or broken into, it would have been different, but this was not the case. The land has been consumed; it cannot return to its original state any more than the ashes of a dead fire can be rekindled. Let the Chiefs of the Council look at the facts of case, and consider them well. This statement is not a new one; it was made by me at Ngaruawahia, and the old Chief who has just died [Potatau] fully admitted its truth. Referring to it he said, "It is correct." \* \* \*

In the year 1847, Waitara was offered for sale. Claims were duly investigated. This was before the return of the people from Kapiti. The Natives residing on the land said, "It will not be right to entertain the claims of those absentees who forsook the land, and took no part in defending it against the Waikatos: let the whole payment be given to us." The Government did not, however, accept this view, and when any payment was made, it was divided, and a portion was sent to Kapiti. The purchase of the Waitara was kept in abeyance until the claims should be clearly ascertained. In 1848 I went to Kapiti, and there was a large gathering at Waikanae at which Wiremu Kingi Te Rangitake proposed to return to Waitara. When he was informed that the Waitara was under offer to the Government he said, "Let me return thither, and I will then consider the matter. When I get there, one side of the river shall be yours and the North side mine, whence I can look out for the Waikatos, in case that tribe should meditate an attack upon us." That was his word: which is retained in the memories of myself and others here present who heard what passed between us. Wiremu Kingi was allowed to locate himself at Waitara, and nothing was said by the Europeans about the land: there was no attempt to press the matter hastily. Wiremu Kingi returned with his people; the sanction of the Governor to his doing so had been given, though the act was on his part intended as one of defiance. On his way he heard that the sale of Mangati [Bell Block] was under negotiation. He met me on this side of Whanganui, and said to me, "Do not give the payment for Mangati. I am willing that it should be sold, but I have a claim on it; let the payment be kept back until I arrive there. When I am there let it be given." I replied, "It is well, William." Some months afterwards I called together all the people of Puketapu and other places to receive the payment. Wiremu Kingi was also invited to be present, to witness the payment. He came: and when the goods had been apportioned out among the several divisions of tribes, I looked to see what portion was assigned for Wiremu Kingi. None appeared: he got nothing. I, therefore, came to the conclusion that Wiremu Kingi had no claim at Mangati. \* \* \*

Te Teira on behalf of the Ngatihinga and Ngaituaho stated that he wished to cede a small portion of his land to the Government, leaving the greater part of it untouched. He said to the assembled people, "Listen, it is only my own land that I shall give." He then asked the Governor whether he would consent that his land should be bought. He repeated his question a



second and a third time before the Governor replied. The Governor then turning to me said "If it is right and that he is really the owner, assent." The assent having been given Te Teira brought a *parawai* mat and placed it at the feet of the Governor. It lay there for some time, and was at last taken possession of for the Governor. Others got up to offer their pieces, but their offers were not accepted as the title did not appear clear. These were accordingly rejected. Wiremu Kingi then rose, and without attempting to impugn Teira's title or right to sell, he merely spoke a few words to the effect that Waitara should be held, and then returned to his place. Before leaving Taranaki I instructed the Land Purchase Commissioner there to investigate carefully the claims to this piece of land, and not to proceed hastily in the matter. He has since been constantly engaged in inquiring into the question of title; Wiremu Kingi also being present at the meetings and admitting that the land belonged to the sellers, but refusing his consent to its being sold. If he or any other person had shewn that any portion of the land belonged to him, such a claim would have been respected.

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D. McLean, Esq.  
(Kohimarama).

His attempt to hold the land is connected with the land league, and was encouraged by the Maori King movement: otherwise he would not have ventured, as he has repeatedly done, to forbid the sale of land to which he never had any claim, not only at Waitara, but at Mokau, at Taranaki, and at other places. Had this been land over which the Native title existed in its original state there might have been some excuse.

After the talk (about the Waitara land) I crossed the straits to Aropaoa, and saw that section of the tribe which is with Ropoama Te Ore. I mentioned that a portion of the Waitara had been offered. I recited the boundaries and asked, "Does that land belong to Wiremu Kingi?" This I said merely to bring out information on the subject. The reply was, "No: if it was on the other side of Waitara, his claim would be just, but this side belongs to us; let us have the payment." I said "It will not be right to give it to you now, wait until the matter is clear; let the claims be investigated on the spot, and then the payment may be given." They pressed the matter, and a third time they urged me to give them the payment. I replied, "Wait until the question is properly settled." Afterwards they agreed to this. The names of these Aropaoa people who have claims at Waitara are Ropoama Te Ore, Ripeka, Ngawheua, Te Herewini, Ihaka, Te Retimona, Timoti, Anaru, Haimona, Henare, Rupuha, Arapere, Hamiora, Tohi, Pirihiara, Nata, Rakira, Eruera Te Rangi, Whiroa, Te Rei at Port Nicholson, and others. These people consented to the sale. It was I who delayed the matter, wishing that the claims should be investigated upon the land of their forefathers. [*Maori Messenger, (a newspaper published by authority in the Native language) July, 1860.*]

### 3. EXTRACT FROM EVIDENCE OF MR. MCLEAN AT THE BAR OF THE HOUSE OF REPRESENTATIVES, 14TH AUGUST, 1860.

I have to state that, several years previous to the purchase, I travelled over the district in company with some Natives, King's own brother being one of the party, and they pointed out to me the respective claims of the different *hapus* or subdivisions of the Waitara tribes. This was in the year 1847, when the Natives were willing to dispose of their interest in the land at Waitara. The Government did not at that time go on with the purchase; Wm. King was expected to come back from Kapiti. His own claims and those of his immediate followers were represented by the best possible evidence (that of his own brother) to be almost exclusively on the north bank of the Waitara River. It was stated to me by old men well acquainted with the circumstances, (speaking as Natives do of these matters, when referring to the several generations of owners), that King's own ancestors were but comparatively recent occupants even there. In 1848 Wm. King and his party returned to Waitara. It was their intention to occupy the north bank of the Waitara. But in consequence of some difference which one of his brothers had with a Native chief at the south—Ropoama—he designed to possess himself of a portion of the land at Waitara belonging to Ropoama. \* \* \*

D. McLean, Esq.,  
Evidence at the Bar  
of the House.  
August, 1860.

The Waikato title to Taranaki was universally admitted by the natives at the time of the conquest: many acts of ownership over the soil had been exercised by them. The land was divided among the conquering chiefs; the usual custom of putting up flags and posts to mark the boundaries of the portions claimed by each chief had been gone through. Any occupation of the land by the Ngatiawa at that period was entirely out of the question, but those natives who were released from slavery from time to time were permitted by Waikato to occupy: but those who had fled to the South were not allowed to return, and they were distinctly warned that if a return were attempted it would be the cause for fresh war against Ngatiawa. The Waikato right was thus established as a right of conquest, and was fully admitted by the Ngatiawa themselves; who, on each occasion when they sold a portion of land at Taranaki, sent a part of the payment to Waikato as an acknowledgement of conquest or of the right of *Mana* possessed by the Waikato chiefs as their conquerors. In this view of the question it is quite evident that the Ngatiawa title had been superseded by the right of the conquerors. And though, in course of time, the parties who fled to the shores of Kapiti, as well as those who were taken captive, were gradually permitted by Waikato to return, it was generally on the understanding that they were to recognize the superior rights of the Waikatos over the territory. The natives who first returned were from the Ngatimaniapoto country. They were permitted to return and did so, with this injunction from the Waikato chiefs who released them, to go and

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*D. McLean, Esq.*  
(Evidence.)

occupy the land but to take care and send them some of the fruits of it, which was accordingly done. In several cases returned slaves were afterwards invested with a right to the soil. \* \* \*

The whole of the purchases previously made at Taranaki had been effected on the same principle as the present one: namely, that of acquiring the land from the different clans and subdivisions of those clans which came in from time to time to offer it. I never, during my residence there, heard of any of the pretended claims that have since sprung into existence, in the imagination, not of the Natives themselves, who are most interested and whose imaginations are easily worked on, but of persons who have a false sympathy instead of a true one with the Natives. \* \* \*

With reference to the particular block under consideration, the claims of the actual owners were carefully enquired into. Notice was given publicly at the time of the purchase to such absentee claimants as were known to have a right to the soil. It was not considered necessary to go about the country to rake up claims, or to induce Natives to prefer them. It was well known that when any block of land was offered for sale, there was no hesitation on the part of claimants to come forward to receive that portion of the proceeds to which the extent of their claims might entitle them. The sale of any land in the country soon becomes known throughout it, from one end to the other; and it is often found that a hundred fictitious claims are adduced, when the actual owners altogether do not exceed thirty or forty persons. There has been a great deal said about unsatisfied claims in different parts of the country, but my own conviction is that many of those claims have been manufactured. At all events, I found that in the course of a few months after the time of the first offer of the land and my notification of it to the tribes at the South, several parties were adducing claims who had never previously done so. \* \* \*

There was no urgency displayed in this matter; no desire to hasten it; but ample time was given to all parties to put forward their claims: and not only was there ample time given, but claims were solicited and hunted up in every direction in Taranaki itself. Yet, with the exception of the two tribes who sold the land on the banks of the Waitara, and another tribe on the banks of the Waiongana, who were joint claimants to a part of the block, no substantial claims were put in. If I were to say that no other claims were adduced I should be wrong, but I mean no substantial claims, no claims that could be recognized by the Government, or which would be regarded by the Natives as valid. Certainly one man told me that his grandfather had once lived a short time on the land, and that he therefore expected compensation. Another told me that in one of their fights he was wounded and suffered great inconvenience there, and therefore thought it was right that he should have some consideration now that the land was sold. Now, this is the class of claims of which I have just been speaking, which it is clearly the duty of the Government to resist, as otherwise it would be an utter impossibility to carry out any purchase of land without defrauding the real owners. By compensating this class of claimants, the real owners would be deprived of what they are fairly entitled to, and merely because the Government chose to recognize fictitious claims of this character. What I maintain on the present occasion is, that the actual owners of the soil, the men known and recognized as such, have been conferred with, and their consent to the sale obtained. \* \* \*

In the case of this purchase, the river on which the land is situated is a place to which the Natives have been much attached, and which many of them were latterly indisposed to alienate. But I quite deny the assertion which has been made here this day, that there are 80 persons at Waitara who have claims to this block of land. If there were 80 claimants there besides those at Waikanae, Port Nicholson, and Queen Charlotte's Sound, they never made their claims known, and the ancestors of many of them were never known to have claims there. Had there been 80 claimants, I believe the invitation given to the Chiefs soon after the Governor's visit to Taranaki, to put in such claims, would have been sufficient to bring them forward. That invitation was dated March 18, 1859, and was to the following effect:

Ngamotu (New Plymouth), 18th March, 1859.

FRIENDS, THE MEN OF WAITARA,

Salutations to you. This is a word to you to request you to make clear (point out) your pieces of land which lie in the portion given up by Te Teira to the Governor.

You are aware that with each individual lies the arrangement as regards his own piece; in like manner Te Teira has the arrangement of his piece. Another cannot interfere with his portions to obstruct his arrangements, for he has the thought for what belongs to himself. This is a word to you. Do not you, without cause, interfere with Te Teira's and Te Retimana's part, for they have consented to the sale of their part, in the presence of the tribe, in broad daylight, and the terms with him for his piece will soon be settled. We will not urge for what belongs to another man, as with him is the thought as regards his own piece.

And now, do not you be dark towards him, as his proceedings give light.

DONALD MCLEAN.

To Wiremu Kingi Whiti,  
To Wiremu Ngawaka Patukakariki,  
To all the men of Waitara.

It has been recently stated that, in addition to those persons who are known and recognized as the actual owners, claimants are to be met with at the South as numerous as a swarm of bees; but I think that those who say so, would find very great difficulty in establishing anything beyond mere assertion of right to the land comprised in the Government purchase. Knowing how scattered the claimants were, and the difficulty of getting them all together in any one place, at any one time, I was a long time pursuing investigations before I myself came to the conclusion that the purchase was quite satisfactory; but the more I enquired into the case, and came into contact with impartial Natives

residing at a distance, and having no particular interest in the locality, the more I became satisfied that the purchase was a good one. \* \* \*

COMMISSIONER'S RE-  
PORTS AND SPEECHES.

Will you describe the meaning of Tribal right in regard to the transfer of land?—It varies so much in different parts of the country, I should wish to know what particular part of the country you refer to—as the custom which prevails in one place does not in another.

D. McLean, Esq.  
(Evidence.)

What is the general rule?—There are very wide exceptions.

Is the rule or exception wider?—The exception is the wider.

When a *hapu* alienates, who represents it, and is the consent of all its members necessary?—In some tribes the different *hapus* must be consulted, in others the chiefs: much depends upon the personal character of the latter. I did not say that *hapus* or subdivisions of tribes had not a right of transfer of property. The various *hapus* or families which compose a tribe most frequently have the right of disposal, but not always: the custom varies.

How do you discover what the rights of the parties are?—You must discover them by inquiry of the people in the district where the land is situated, and elsewhere.

Then the sum of your evidence is this: That there are no settled rules or principles guiding alienation of land, and that in such matters the exception is wider than the rule?—The Natives have no fixed rule. The custom varies in different districts.

What are the rules of alienation in the Ngatiawa tribe?—In the Ngatiawa a family of three or four people has been regarded as empowered to dispose of its common property.

Have they long enjoyed this right?—It has been for the last eighteen years.

You have referred to the alteration of the Native tenures owing to disputes. By whose consent and in what manner have the ancient tenures been altered?—The original occupants have in many cases been swept off the country. The tenure has been changed in Taranaki by the Waikato conquest.

What evidence have you of such alteration?—The evidence of living witnesses who took part in the conquest.

When you say the tenures were altered, do you mean, not that the laws by which the lands were held were changed, but that the ownership changed hands?—I mean that there was an entire change. The right of the original proprietors became vested in the conquerors.

Has King ever made a claim of proprietary right?—William King has never made such a claim to my knowledge.

Under the peculiar circumstances of the Taranaki case, had King, in your opinion, any right to interfere with the sale by another *hapu* of their lands?—Decidedly he had not.

Has any similar interference by the Chief been recognized in Taranaki, either in favour of King, or of any other?—Never in connection with any of the purchases made there.

Having regard to previous transactions, do you consider that the Government ought to recognize any but proprietary claims in Taranaki?—I do not think that the Government should recognize any but proprietary claims.

Have I rightly understood you that notwithstanding the Waikato conquest, the British Government has respected the separate proprietary rights in Taranaki of the several sections of the Ngatiawa?—You have rightly understood me.

Has the Government allowed the exercise, or has the exercise hitherto been attempted, within the block comprised in Mr. Spain's award, of any general tribal right, or right of chieftainship, so as to interfere with the rights of the several *hapus* or families to dispose of their lands to the British Government?—No; no general rights of that kind have been exercised; but the rights of the subdivisions or different *hapus* of each tribe have been recognized.

Did William King assert any claim to the Bell Block, and if so was it allowed, and did he receive any of the payment for that land?—He asserted a claim, but it did not entitle him to receive any part of the payment given for the land.

Is there any country belonging to the Puketapu tribe North of the Bell Block, towards the Waitara?—The country north of the Bell Block belongs to the Puketapu tribe, their boundary goes to within about two miles of the Waitara river.

Has William King ever set up a claim over the whole country between Waitara and the Bell Block?—He has constantly done so. The only claim he does set up is that general claim over the whole country between Mokau and Waitaha.

How many millions of acres have you purchased, during the last twenty years, at other places than Taranaki?—The various purchases in these islands with which I have been connected amount to about 20,000,000 or 25,000,000 of acres.

Has the validity of any of these purchases ever been disputed?—In very few cases indeed. There has been no serious dispute in any. The validity of the purchases has never been disputed in any important particular.

Have you neglected in the Taranaki case any investigation, inquiry, or precaution which you adopted in those undisputed cases?—Every precaution was used. A great deal of trouble was taken to obtain a knowledge of the different claimants.

Did you advise the Governor that the title of the sellers of Te Teira's block was good, before the purchase of the block was made?—I advised the Governor to accept the offer, and proceed with the purchase of the block, because it appeared to me that Te Teira had an unquestionable title.

[In Sess. Pap. Gen. Assembly, 1860, E. No. 4.]

COMMISSIONER'S REPORTS AND SPEECHES.

4.—*Extract from Report of Mr. Parris, District Land Purchase Commissioner, dated 16th July, 1860.*R. Parris, Esq., Report,  
16 July, 1860.

This land was first offered to the Government on the 8th March, 1859, before a large meeting of Natives, assembled to meet His Excellency the Governor in the Town of New Plymouth; present, His Excellency the Governor, the Native Minister, the Native Secretary and Chief Commissioner, His Honor the Superintendent, Lieut.-Colonel Murray, Rev. Mr. Whiteley, and a number of settlers. Among the Natives present were all the leading men of the Waitara, Puketapu, Ngamotu, and some of the Taranaki Tribes. After the usual salutations had been exchanged, and two or three short addresses to His Excellency the Governor, Teira rose and said, "Listen all present, both Europeans and Maories, I am going to offer the Governor my land." He then commenced to name the boundary, during which there was not the slightest interruption. Having finished, he put the question to His Excellency the Governor, whether he would consent to buy his land. There was a pause while His Excellency was consulting with the Native Minister and the Chief Commissioner, before answering the question. In the interim, a Native called Piripi got up to propose that a block of land, inland of Teira's, in which he (Piripi) has some claims, should be added to Teira's, and sold as one block. This proposal was instantly opposed by Patukakariki and several others; when another man (Hemi Kuka) got up to offer his land at Onaero, which caused some confusion; and seeing it was likely to interrupt Teira's question, I requested Hemi Kuka to sit down, which he did; Piripi was still standing, and Wm. King rose to put him down, when Teira said to him, "*E Wi, noho koe ki te whenua, maku e whakaoti te tikanga a Piripi*," (Wm. King, you sit down, I will stop Piripi.) Wm. King sat down: and Teira, addressing himself to Piripi, said, "I shall not consent for the land which I am offering, to be entangled with any other; when mine is sold, you can do as you like with yours." Quietness having been restored, Teira again put the following question to His Excellency the Governor, "Will you consent to buy my land?" His Excellency replied through the Chief Commissioner, "If the land is yours, I consent to buy it"; upon which Teira walked up to His Excellency with a Kaitakamat, and laid it down at his feet, as a token that the land had departed from him. Seeing there was no interruption, some Natives present said, "*Kua riro a Waitara*" (Waitara is gone): when Wm. King rose, and in a very disrespectful and sullen tone said, "Governor, there is no land for you," and left most abruptly and unceremoniously with his followers, without offering the slightest explanation. Previously to His Excellency's departure from the settlement, I was instructed to investigate Teira's claim carefully and cautiously, and not to do anything, or encourage any move on the part of the sellers, which would in any way be calculated to bring into hostile collision the two parties: and from time to time to report the result of my investigation. \* \* \*

In September last, the peace negotiations having been concluded, I went to Waitara, to have an interview with William King and his people, on the subject of resuming the negotiation for Teira's land. I spent this day and many others with them, endeavouring to induce them to meet Teira's party, and discuss quietly and deliberately the claims to the block of land: but they never would consent to do it. I therefore was obliged to get information from other Natives, (and strange to say some who are now opposing the Government, Hapurona and others,) to compare with the representations of the selling party; and the information which I obtained fully corroborated the statements of the selling party. Hapurona on one occasion had a disagreement with W. King, and declared that he never would support the opposition. The land was occupied by Tamati Raru's and Rawiri Raupongo's people, before the Ngatiawa migration to the South, and their Pa was at Pukekohatu on the land; whilst William King and his people were living on the North side of the river, and had their Pa at Manukorihi. On returning from the South, in 1848, they asked permission of Teira and his father to be allowed to build their Pa on the South side, which question had been submitted to a Committee who had decided that the South side was preferable to the North, in case of an invasion from Waikato. Since their return from the South, none of the land sold by Teira and party has ever been cultivated by William King's people.

Having been authorised to pay an instalment for the land, I appointed the 29th November for that purpose, and gave William King a week's notice of my intention to do so. On the 28th he came to Town with about thirty followers, all armed; on hearing they were at the Kauwau Pa, I went to them, and prevailed on William King to remain until the following day, and supplied them with food for that purpose: and on the 29th they met Teira's party, before His Honor the Superintendent, Lieut.-Colonel Murray, Rev. Mr. Whiteley, and other authorities of the place: when he distinctly admitted, in answer to a question put to him by myself, that the land was Teira's and his supporters, but that he would not allow them to sell it.

On payment of the instalment of the 29th November last, I read over the boundary of the block of land, in the presence of William King and his party, to which was appended the following, as instructions from His Excellency the Governor:

"If any other person can prove that he owns any part of the land within the boundaries above described, his claim will be respected, and he will be allowed to *retain* or *sell* the same as he may think proper."

No definite claim was ever preferred, at this or any other time, and the only position they have ever taken is the arbitrary one of assuming the right to oppose the sale of any land, even by the rightful owners.

Rawiri Raupongo, an extensive claimant in the Waitara district, was frequently forcing the sale of this land upon me privately, being, as he always assured me, afraid to move publicly in the matter lest he should be served the same as Rawiri Waiau was; and the opposing party for a time had an impression that he was not a consenting party, for one of William King's principal men, Komene

Patumoe, made a statement to Archdeacon Govett, which that gentleman has furnished me with, a copy of which I here insert :

New Plymouth, July 10, 1860.

DEAR SIR,

I have no objection to give you a written statement of what was said by Komene Patumoe to me, regarding the sale of the Block of land at Waitara. His expression was, that if Rawiri Rau-pongo had been a consenting party to the sale, they could not have had anything to say against it (*Kahore a matou kupu*). By this I understood him to mean, that the Natives generally at the Waitara could not have reasonably opposed it.

I remain, &c.,

Robert Paris, Esq.

HENRY GOVETT.

With respect to Archdeacon Hadfield, the position he has taken in this matter justifies me in reporting, that seeking to effect a peaceful purchase of Teira's land at Waitara, I solicited Archdeacon Govett to write to him to use his influence with William King to that effect, informing him that the Governor was inclined to be very liberal to him and his people, and would make ample reserves for them. Archdeacon Hadfield replied, and Archdeacon Govett read the letter to me, in which he stated that "he would not advise Natives to sell their land, that he was not pleased with anything the Government had done for the Natives, and that the Governor would find that a large party of the Natives at Otaki would espouse William King's cause."

[*In Sess. Pap. Gen. Assembly, 1860, E. No. 3A.*]

#### 5. The Governor's Enquiry as to Wiremu King's right.

Memorandum.

Government House,  
20th July, 1860.

The Governor's Minute  
as to the title.  
20 July, 1860.

In order to complete the documents about to be printed for both Houses of the Assembly, the Governor requests the Chief Land Purchase Commissioner to answer the following questions :

First,—Had Tamati Raru, Rawiri Rauponga, and their people, such a title to the block of land recently purchased at the Waitara, as justified them in selling it to the Queen ?

Second,—Had William King any right to interfere to prevent the sale of the above block of land at the Waitara to the Queen ?

T. GORE BROWNE.

Report :

Auckland, 23rd July, 1860.

In reply to your Excellency's memorandum of the 20th inst., I have the honor to state with reference to the first mentioned question, as to whether Tamati Raru, Rawiri, Rauponga, and their people, had such a title to the land recently purchased at the Waitara as justified them in selling it to the Queen : I believe that the above Chiefs, conjointly with others at the South associated with them in the sale, had an undoubted right of disposal to the land in question.

Chief Commissioner's  
Reply.

With reference to the second enquiry, "Had William King any right to interfere to prevent the sale of the above block of land at the Waitara to the Queen?" The question of the title has been carefully investigated. All the evidence that has come before me, including Wm. King's own testimony that the land belonged to the above parties, goes to prove that he had no right to interfere. The interference assumed by him has been obviously based upon opposition to the land sales in the Taranaki Province generally, as a prominent member of an Anti-land-selling League.

DONALD McLEAN,  
Chief Land Purchase Commissioner.

[*In Sess. Pap. Gen. Assembly, 1860, E. No. 3A.*]

#### 6. Deed of Sale of Waitara, 24th February, 1860.

[Translation.]

Deed of Sale of Waitara,  
24th February, 1860.

KNOW ALL MEN, by this Deed, executed on the twenty-fourth day of February, in the year of our Lord one thousand eight hundred and sixty (1860), We, Chiefs and Men of New Zealand, whose names are hereunto subscribed, in consideration of the sum of six hundred pounds (£600) paid to us by Parris, on behalf of Queen Victoria (and we hereby acknowledge the receipt of the said monies) We all and each of us by this Deed consent to sell, surrender, and convey to Queen Victoria, and to all the Kings and Queens, Her Successors, and to Her Assigns, all that piece of land called Pekapeka.

*The boundaries of which are*

Commencing on the beach at Onatiki, running inland in a straight line to Kohia, to the high road to Mamaku, from thence running in a Northerly direction along the cart road to Pukeruru, descending thence to Maungahakaia to the stream called Mangahinau, from thence seaward to Opatito to a Kahikatea (tree) standing there, continuing thence to Arakauere, from thence in a Northerly direction to Pukekohe on the flat on the landside of the Pa, from thence to the steep towards the North, running along the steep seaward to the ditch fence to Matawhitu, running in a Northerly direction to the river Waitara, following down such stream to its mouth at the beach, from thence running in a Southerly direction along the beach to Onatiki, the starting point :

COMMISSIONER'S RE-  
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Together with all right to the things appertaining thereto, with all our right, title, interest, claim, and demand, which all and each of us have in the said land, and all thereunto belonging, to the Queen and Her Assigns for ever.

In testimony of our surrender, we hereunto subscribe our names.

Tamati x (his mark) Raru  
Rawiri x (his mark) Raupongo  
Te Teira Manuka  
Hemi Waitikingi Pataka  
Paranihi  
E Piha te hoko  
Weterere  
Hori Te Kokako  
Rawiri x (his mark) Kauri  
Eruera Raurongo  
More x (his mark) Whatu

Hita x (her mark)  
Pipeiki  
Hira  
Rakira x (her mark) Te Ringa  
Makareta x (her mark) Te Motu  
Rameri x (her mark)  
Wikitoria x (her mark)  
Te Watene x (her mark)

(19 names.)

Written in the presence of

ROBERT PARRIS, District Commissioner  
JOHN L. NEWMAN, Settler  
E. W. STOCKMAN.

[In Sess. Pap. Gen. Assembly, 1860, E. No. 2A.]

#### 7. Report of District Commissioner, Taranaki, to Chief Land Purchase Commissioner.

New Plymouth, December 4th, 1859.

R. Parris, Esq., Report,  
4th December, 1859.

I have the honor to inform you, that on Tuesday, 29th ultimo, I paid an instalment of one hundred pounds to Teira and others for their land at Waitara.

On Friday, 25th ultimo, I went to Waitara, and informed Wm. King that I purposed doing so. On Tuesday, 29th ultimo, he came to town with a party of about thirty to oppose it. I prevailed on them to meet Teira and party and discuss the question, which was done in a very orderly manner in the presence of a large audience of Europeans.

Wm. King avowed his determination to oppose the sale, without advancing any reason for doing so; upon which I put a series of questions to him, which I called upon the Rev. Mr. Whiteley to witness.

Q. Does the land belong to Teira and party?—A. Yes, the land is theirs, but I will not let them sell it.

Q. Why will you oppose their selling that which is their own?—A. Because I do not wish for the land to be disturbed; and although they have floated it, I will not let it go to sea.

Q. Show me the justness or correctness of your opposition?—A. It is enough, Parris, their bellies are full with the sight of the money you have promised them, but don't give it to them; if you do, I won't let you have the land, but will take it and cultivate it myself.

Teira stops in town since he received the instalment, considering it not safe for him to stop at Waitara.

I have, &c.,

ROBERT PARRIS, District Commissioner.

I hereby certify that the above questions were put, and the answers given, as reported by Mr. Commissioner Parris.

JOHN WHITELEY, Wesleyan Missionary.

The Chief Commissioner.

[In Sess. Pap. Gen. Assembly, 1860, E. No. 3.]

## APPENDIX D.

## SPEECHES AND LETTERS OF NATIVE CHIEFS.

NATIVE SPEECHES,  
&c.1.—*Extracts from Speeches of Chiefs at the Ngāruawāhia Meeting, in May, 1860.**Speeches at the Waikato Meeting.*

Karaka Tomo te Whakapo, from Rangiaohia : You are right, those are our mottoes, Let there be no evil of any kind, no war among the Pakeha, and no war among the Maories. But let us build our Pa, let us complete it. Let it be quite finished. I do not consider it completed yet. Leave the other things, the war at Taranaki, for the Evil Spirit to carry on. Twice he has turned upon us, and twice we have forgiven. Let us abide by our three mottoes, and wait to see if he will be strong and persevere. Our Pa stands broken: listen William, Takerei, Wetini, listen, I consider that our Pa for our wives and children is not yet complete: let us finish it, dig the trenches, throw up the breast-work and bind the fences. Look at his (the Pakeha's) work in other lands, never too late, never behind time (alluding to the prompt movements and careful preparations of the Europeans)—therefore I say quickly build our Pa.

Tapihana replied : What pa is that you are building ? we have built our pa, and it is broken down and stained with blood. The wealth we had collected into our bag is scattered, it is thrown out into the fern, who shall gather it up again ? (alluding to the men who had fallen at Taranaki).

Tomo Whakapo replied : You may say that our pa is finished, but I do not. As for our blood, Christianity had stopped its flow, but we ourselves opened the wound, (alluding to Maori quarrels.) I shall not hastily see the correctness of your proposal : should I consent now we shall all be ruined at once. The Governor has been to Taranaki and has returned to *whangai hau* (i.e., to sing and exult) over the slain : my thought is "How often shall my brother sin against me and I forgive ?"

William Thompson Tarapipipi : I am disturbed by the letter received from Wm. King. I wish to understand the case, but do not see it. They (the Europeans) have forsaken the right way, they have become deranged like the king of Babylon who was turned into the forest. But let us not take up arms in an unrighteous cause. Ahab coveted Naboth's vineyard, and because Naboth would not give up the inheritance of his fathers, Ahab was greatly disturbed. Jezebel his wife saw his trouble and said, I will give it thee. She brought Naboth to death by falsehood and took it, but God avenged the deed. I do not forget some of the Kings of Judah who engaged in unrighteous war, how they perished in their sin. Therefore I hesitate and say, let us see our way. Wm. King says the land is his ; Taylor says it is his. I say let us find out the owner. Do not make haste lest we make a mistake. I do not condemn the Governor, for I am not informed. As for the Queen she is the minister of God, and the minister of God is not supposed to do wrong. If wrong be done it is the fault of the Executive (te Kaihapai). I also remember the words of Paul, "Let every soul be subject unto the higher powers, for there is no power but of God ; the powers that be are ordained of God." I do not say, let us find out that the Governor is right, that I may join him : nor am I idle or unwilling to go to war if necessary, but let me have a just cause. I have heard, but I have not seen. Do you ask what shall be done if my proposition be accepted to go and investigate ? If the Governor say that this (the Maori King), is the cause of the war, I see through it. If he say that it is the land, I see through that also. But I do not speak it, that is a matter not to be spoken here, it is a hidden word that is to be kept in the heart. We intend to keep our land, and if the Governor come to take another piece after this, then we shall have war. \* \* \* \* \* Let the subject be taken up and settled by the Chiefs. Let all questions be disposed of now we are assembled together. Shall we go to the Governor, or shall we join Rangitake ? Let us search out the merits of the case, that if we die we may die in a righteous cause. Let us find out who is wrong ; if the Governor, then let us tell him to go. But let us not join in that which is wrong, lest like Israel of old, we fall into error and die for it. My desire is to investigate the matter, and if the Chiefs are convinced that the Governor has done wrong, then all unite in telling him to stand aside.

Te Waka (Ngatimahanga) : If the Governor has done wrong, then I assent to the proposal to ask for his removal, but if it turn out that all the evil has arisen from this movement of yours, how then ? Do you see the boundary line that Wetini has drawn to divide the Maories from the Pakeha ? I shall remove it (taking a piece of fern and rubbing out the line that had been drawn in the sand).

Kapereira : I accompanied Wi Tako on his return from Waikato. I wanted to have an explanation about the Parawai (the mat that Teira presented to the Governor). We intended to see W. King, but on reaching Waitara we heard that war had commenced, that pakehas had been killed, so Tako would not visit King. We saw Ihaia and Teira. Teira asked—For what purpose have you come ? We replied—To enquire about the mat and to take the truth back to Waikato. He said—The piece is small, the greater portion of Waitara is King's ; mine is in the centre. Then came the news that Waikato was about to attack Auckland. I went to King and said—I have come to enquire about the mat. He replied—"The report is correct. I looked on in silence." I said—"That was your error, you ought to have taken it away." "I did not," he replied, "I simply threw a word at the Governor, and said to him, I will not give you my land ; I did not take up the mat, but I spake my word. The pakeha wants our land, but this war is about your Maori king. Don't listen to the pakeha, but bring your flag to Waitara. Go back and clear them out ; send them all back to England."

Kapereira repeated what he had said at a former meeting.

NATIVE SPEECHES,  
&c.

*Speeches at Ngarua-  
wahia.*

Ihaka of Pukaki enquired : Did W. King speak to you ?—Yes.

Ihaka : What did he say ?—He said he did not take away the mat, but called out that he would not part with his land.

Ihaka : When was the land bought ?—After the flag was upon it.

Tamati Ngapora : I wish my proposals to be disposed of. "Rangitake give me that piece of land that has caused the war." "Give me that piece that has been purchased and paid for by the Governor."

Patene (Ngatimaniapoto) replied, representing W. King, "I shall not give it up."

Tamati Ngapora : Give it to me.

Patene : "I am under some mistake." He then planted a stick in the ground to represent Potatau and Waitara; and said, "This is Potatau; my mana stands there; after my mana rested on the land the scrofulous man arose, offered it for sale and the Governor accepted the offer."

Tamati : That is Potatau, is it ? and this land has been handed over to Potatau, has it ? Then it is mine. I represent Potatau here and I give this land to the Governor. (Tamati was instructed by Potatau to adopt this plan).

Patene : For what reason do you give that land to the Governor ?

Tamati Ngapora : That peace may be restored and our trouble cease.

Tioriori addressed Tamati : You say you are the father. We have given our land and our mana to you, and we expect you to protect it, but not to give it away.

Hopa : Proposals are made by Tamati. Look at them, they point the way to peace. Why should any of you be disturbed by Tamati's proposals, they are correct. If you go to Taranaki to join W. King no peace will come out of that. If you think well to send a deputation to investigate the matter, good, go in peace, and when you are satisfied that the land was Teira's leave it to his disposal.

Ruihana : Yes, let us go, Pakeha and Maori, if the land be Teira's all will be easy, but if we find that it is King's in whole or in part how then ? ("Divide it" was the reply from the crowd). Let us go also to the Governor and have it settled, talking here will not settle it. The Governor ought to have informed us before he went to Taranaki, but he went first and informed us after.

Toimo : Let us quietly search out the origin of this war. If the land be Teira's, let him have it. Wetini says let us sympathise with W. King; let us hold the land. Tarapipipi says, let us enquire into it and see whether it is King's, and if partly Teira's and partly King's divide it. The end of all is, let us look to God. Wetini has opened this path to preserve our land.

Toimo Whakapo : I am thinking of the argument between Tamati and Patene. One says he is the father, the other says no, he is the father. I agree with Tamati, he is the father of us all, of men and land (i.e., he represents Potatau). This is our plan: we say to all who join this league, give us your land, and give us your person. Our first object is to make fast the land, our second to place our mana over it for ourselves. Men have heard in all parts of the island, and have brought their land and themselves too, and said "Here is our land and our blood, hold them fast." When they have come and stood in my presence with these words I have consented. I did not go to them, they have come to me. I did not call to them, they came unasked, and our flag has been carried far and wide: it has been planted first in one place, then in another; it has gone to Taranaki, and that land has been handed to us.

Hopa : Did Teira come to you and bring his piece and hand it over to you ? I do not know that he did so.

Paora (of Orakei) : I perceive that you are very eager to pick out the errors of the Governor, but I have not discovered his error. You say that you have not seen wrong on the part of Te Rangitake. I have seen his wrong doing. Letters have reached you that convict him of wrong. Yet you say you have not seen it. I repeat I have seen it, and I believe there is not a chief in Waikato that is not convinced that Te Rangitake is wrong. I have seen Wi Tako's letter addressed to you all, and that letter set my mind at rest on the subject. You have all seen that letter, and its statements should settle the question. [Addressing himself particularly to W. Tarapipipi he said,] I have heard of your zeal in this work, and now I see it, what is it ? You have nothing to say, the sharp edge of your sayings is this day broken off. I came expecting to hear the wisdom of Solomon, but I hear it not. The edge of your work is broken. Tamati has said he is father: that may apply to the land, but to nothing further. You speak of mana, what is the mana ? Where is the mana ? There is no such thing as putting mana on the land, and therefore he is wrong. I came to see the work you are doing, not to oppose you, but to see for myself. I thought it might be good, but it will not do for me. You have set up a king without authority, and this is the source of all our present troubles. (Signs of disapprobation). Ah, you would silence all who do not agree with your plans.

Katene : I have some questions to ask. The Governor and W. King have been at war some time, and blood has been shed. Now, should you find that King is wrong, and that he persists in his wrong, what shall we do ? [One replied, "Take Waitara ourselves."] If the Governor demand the murderers, shall we give them up ? If it were but the beginning and no war had taken place, we might see our way; but it is dark.

Patara : If W. King be wrong, we shall say, Give to the Governor the land he has bought, but don't give up the men. If the Governor be wrong, then let the land return to Rangitake. Let us not get our fingers bitten at that place. About the murders: that murders were committed is not clear to me. It was *uru maranga*—(carrying on war begun); therefore I will not give up those men. The Governor came first; if those deaths had been first and war after, I should say surrender them.

Heta (Ngatihaua) : Make haste to hold the land—though it was Teira's, hold it.

Raihi : The words of Heta may be all right if Teira approve, but if he has not consented that his land be given to Potatau what then ?



Te Oriori : Ruihana's proposal is not yet disposed of—viz., that we send a deputation to investigate the dispute between Teira and Te Rangitake. One part of it is decided, viz., that some of us go to the Governor: but the other is yet open. I intend to attend the meeting [Conference] that has been summoned by the Governor, that I may learn his intentions. But the Maori side of the question lies open still, let that be settled.

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&c.

Speech at Ngarua-  
wahu.

Ruihana : True, one side is disposed of but the other is like this *kete*, (taking a native basket in his hand, holding it up and asking,) what does this *kete* contain? There is something inside, and a dog is biting away outside wanting to get at the food it contains. He does not know whether it is eel, or fish, or pork, but he bites his way through and finds it is only a bit of fern root. We are just like this dog; here we are biting away outside the *kete*, I want to get inside, to see what it contains, whether fish, or eel, or dung. I want to know who is right and who is wrong, whether the wrong is Governor's or Te Rangitake's, and what all this agitation is about. Perhaps when the basket is open it contains nothing after all. But let us see, and if the Governor be right, all is plain, it is soon disposed of. But if Rangitake be right what then? Why the burden will fall upon the Queen, and upon our Ministers. I appeal to you Ministers, and Queen's men, and pakehas all, I say you go to the Governor, and let Tarapipipi go to Taranaki and see what this basket contains. We pray to God and say God be merciful to me a sinner, but we pray in vain while this state of things continues. Your words Mr. Buddle, and the words of all our Ministers are right, on this subject; and therefore I say let us have this disturbance brought to an end.

Heta Ngatihaua (the young man who made the flags that were sent to Taranaki): Press your words Ruihana, send a deputation to Taranaki, let us know when that land was paid for; before our mana reached it or after. If our mana was first then we do not let it go, but support Rangitake in his right. This shall decide his claim. The money second, the mana first, we hold it fast.

Te Atua (Ngatipo): It cannot be made right by the money. The money was not paid before the land was under our mana. The money on that land is the mara that rests upon it.

Kopara Ngatihinetu : All subjects are disposed of but one. The question is, was the flag first or the money first? If the land was paid for before the flag reached it, the Governor is right: if not, then the matter cannot rest where it is. If the mana and flag went before, we must contend for our land. Our flags have been sent in reply to the applications that come to us. Letters have reached us from many places, saying "Give me a flag as protection for my land." And I have sent the flag of King Potatau; I have sent it to Taranaki. Wi Tako, Hapuka, the men of Heretaunga, Rangitake, and others have come or sent, saying, "Give me a flag." We have replied, "Here it is." And now it is planted along the Island to Wairarapa. Don't say, I invited those tribes to come for it. No, they came of their own will to seek protection for their land against the white man's encroachment. Let us have patience till our friends who have gone to Taranaki shall return, then we shall know the merits of the case. When we know how matters stand we shall form a second expedition. They may be here to-morrow.

Te Wetini : I wish to reply to one question. If the Governor's money was laid down for the land at Waitara before it came under our law then he is right. But if it was paid for after the land was handed to us, I do not say what we shall do. That we keep in our pockets; I open not my mouth on that subject; but I can see the depth and height, the length and breadth of that. I lean on our flag; on the whip (a long streamer they hoist, which they call the whip.) The wrong committed on the Queen's side, it is for the Queen to adjust. The bond of union has been cut, and God and the Maories only now remain in the union. If the land was purchased after it became ours, then I shall shew my love to Rangitake. (Here he recited a native tangi, see p. 17, of Sir George Grey's collection).

Tamati (Ngapaoa) : Te Heuheu, will you give that piece of land to me? (meaning Waitara.)

Patene : If I give up that, another piece will be purchased by and bye. How then?

Tamati : Leave that to me; am I not your father?

Patene : I do not consent, for this reason; that if I should, the same thing will occur again and again.

Tamati : Shall I consider you as the father?

Patene : All that I have done is this. I have received letters from all quarters handing over land to me. I have not gone and taken unauthorised possession of any man's land. I have coveted no man's property, nor said, hand over to me the lands of any tribe. When requested to accept land by letters which have come to me, I have done so, and on this ground I claim a right over those lands, and call them mine.—[Pamphlet by Rev. T. Buddle, 1860.]

## 2. Extracts from Speeches of Chiefs at the Kohimarama Conference in July and August, 1860.

Wiremu Tamihana Te Neke, (Ngatiawa,) Waikanae : Listen Pakehas ! Listen also Chiefs of the Runanga. I will answer the public statement made by Mr. McLean on Thursday of last week (speech on the Waitara question), respecting the assent given by Te Awe, Wiremu Kingi, and Wi Tikao to the sale of Waitara to the Pakeha. I do not understand this. I did not hear the assent given for the sale of Waitara. I remember when Wiremu Kingi, Mohi Tohiroa, and Tuarau went to Aropaoa. The "Tory" [Colonel Wakefield's vessel in 1839] is the name of the vessel they went in from Kapiti. We, Tohiroa, Tuainane, and Te Matoa remained at Tahoramorea in the presence of Rangihaeata and Te Rauparaha. Why did not Wiremu Kingi and Te Awe declare publicly their consent to the sale of Waitara, in order that all the chiefs residing at Waikanae who had claims at Waitara might hear? I never heard of that consent of theirs : the only thing I heard of was Col. Wakefield's purchase; that I did hear about. The second thing I heard of was Potatau's sale; also the dispute between Wi Kingi and

Speeches at the Conference at Kohimarama.

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&c.*Speeches at Kohima-  
rama.*

Kati at the Bay of Islands. I heard of that also. I heard of Governor Fitzroy's boundary, of which Mr. McLean has spoken: the Taniwha to the North, and Ngamotu to the South (were the points fixed). But the statement made that the payment for Waitara was paid, part of it at Waitara and the other part at Kaputi, I did not hear. [Mr. McLean here interposed and said that he had never stated that the payment was given at Waitara: what he said was that the payment was given at Ngamotu.] The only distribution of payment which I witnessed was by Captain Rhodes at Waikanae for land at Waikanae. If Wiremu Kingi and Te Awe had consented to the Sale of Waitara, how is it that they do not remember the transaction? How is it that he (Wi Kingi) returned to Waitara? His father Reretawhangawhanga expressed a desire that he should return to Waitara. He is dead: Wi Kingi still lives. After this we went to Port Nicholson and there assembled in the presence of Governor Grey. The object of our visit was to sell Waikanae to him. Governor Grey addressed William King and said, "Give (or sell) me Waitara." He did not consent. Governor Grey asked William King the second time, "Give me Waitara." He did not consent, but said to him, "I will keep Waitara: you take Waikanae." Neither consented to the other's proposal. William King did not agree that Waitara should be sold. Now the second time the subject was brought up was when Governor Grey visited Taranaki in the steamer (H.M.S. Inflexible). Wiremu Kingi, Te Puni and others were with him. They argued the matter there. Governor Grey did not yield to Wiremu Kingi and Wiremu Kingi did not yield to Governor Grey. The boundary fixed by Governor FitzRoy is clear. Two things are not quite so clear: First, the agreement of Wiremu Kingi and Te Awe at Aropaoa: secondly, the distribution of payment. I did not hear of these. \* \* \* Listen ye of this Conference! The laws of England are good, and the love of the Queen is good, but there are some men who abuse them. This is what I know! People came from England bringing good and true things; we examined them, and then we took hold of them and adopted them for our own use. We upheld the portion which you handed to us, and you still retained the other portion. We seized hold of the lower part; we did not secure the upper. This is not the first occasion on which we have been taught in what is right. We, through our ignorance, have been slow to learn what we have been taught. Pakehas have urged me to follow their plans: (that I did not do so) was my own fault and the result of my own ignorance. For this reason I say the laws of the Queen are clear, and so is her love. My own ignorance has been the source of my troubles. Enough about that. \* \* \* I shall not be strong (to speak) now about the fighting which is going on yonder. If the evil rested with me (i.e. with my tribe) alone, then I might speak. I, that is Ngatiawa, commenced it, then Ngatiruanui and Taranaki joined in it, and now Waikato also is implicated. If the evil rested with me alone, then I might endeavour to do something: had Ngatiawa alone been concerned, then I should have spoken with power. I have no influence in this matter. The evil will spread, and perhaps other tribes will become concerned in it. My evil will cause the death of men; perhaps even the men (soldiers) from Australia will die from this evil. It is a waste that men's lives should be lost in this war.

Te Rira Porutu, (Ngatiawa,) Wellington:—I have no views to express. Those subjects are disposed of. I have only one matter to speak of, and that is to find fault with my own tribe. They are wrong in two respects, namely, in withholding the land and in shooting Pakehas. \* \* Te Awaitaia, listen! I made two charges: that they withheld the land, and that they killed Pakehas; for these Pakehas were not killed in fair fight. Those whom I have named are the Chiefs. My words of disapproval have gone forth: you have heard them. Have I not made two (charges)? Then do not say that I do not blame my tribe.

Tamihana Te Rauparaha, (Ngatitua,) Otaki: Now with reference to William King. He was a peaceful man when he resided at Kaputi. He listened to the advice of Governor Grey. He also apprehended some of Te Rangihaeata's men, and conveyed them to the steamer (H.M.S. "Driver"). After his return to Taranaki he became badly disposed. He was led into it by the (returned) slaves of Waikato; and he continued to grow in evil. It was Te Rangitake who advised the Ngatiawa to return to Taranaki. That was the reason of their returning. Their avowed object in returning to Taranaki was to cultivate Christianity and the worship of God. When they returned they did not remain quiet, but commenced quarrelling amongst themselves, and continue to do so to this day. They afterwards turned and fought with the Pakehas. Where we (the Maories) are in fault is this, we cleave to our old customs, namely wickedness and fighting.

Hohepa Tamaihengia, (Ngatitua,) Porirua:—Listen this Conference! Wairau was the first cause of evil. I went to retain my lands. When Capt. Wakefield and Mr. Thompson saw this, they intended to do us harm by taking both us and our land. We thought it would not be just to take both us and our land. It appeared to me that the right course was to spend three days in the investigation of the matter; and then we might decide upon giving up one part of Wairau. Mr. Thompson thought differently and was for seizing the Natives. Evil commenced here. Mr. Thompson gave the order to fire upon us, and they fired, and one of the Natives fell. This provoked us; we fired upon the Pakehas and killed ten of them. This secured our land to us. Governor FitzRoy arrived and made a fair arrangement about the payment for the land. The subject of Taranaki was discussed according to the words of the Natives contained in that Bible (Blue-book). Waitara had long since been given up. I did not hear anything of a certain tribe, viz., Ngatikura. In my opinion Teira's piece of land is his own, and he has a right to sell it to the Governor. I condemn William King. When Governor Grey arrived, he demanded the place where the Pakehas were slain at Wairau. We consented to this. When the Pakehas were slain by Te Rangihaeata at Heretaunga (Hutt), Heretaunga was given up as payment. At Whanganui, when Pakehas were slain there, one side of Whanganui was given up as payment for the slain.

Now I ask that I may be allowed to go to Waitara to see Wiremu Kingi, that I may speak to him face to face (mouth to mouth), that I may tell him to put a stop to his doings. My speech is ended.

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&c.

*Speeches at Kohimarama.*

(Wi. Kingi.)

Tamihana Te Rauparaha, (Ngatitōa,) Otaki: I have now something to say in condemnation of the conduct of my son, Te Rangitake. I refer to his taking Te Teira's land and thereby causing the present war. When he was at Kapiti I understood the conduct of Te Rangitake. During Te Rangihaeata's disturbances with the pakehas at the Hutt (Wellington), he requested the cooperation of Te Rangitake, but he (Te Rangitake) did not consent. It was the returned slaves from Waikato who instructed him in evil. That land belonged to Te Teira. He inherited it from his ancestors. When they resided at Kapiti no boundaries were fixed. The pakehas came, bringing the Gospel and Peace. The result was that the slaves were liberated. It was only when he returned to Waitara that Te Teira became acquainted with the boundaries (possessions) of his ancestors. The case is similar to ours. The lands of our ancestors are at Kawhia and Maungataniwhi. There are probably boundary lines, but I do not know them; perhaps the old men remember them. It was a deserted land. It was not left as the pakehas leave their lands, the title deeds being in the possession of their children. The statement that Te Teira is a man of inferior rank is true, for when they resided at Waikanae others were considered the chiefs, namely Reretawhangawhanga, Tohiroa, Te Awe and others. Te Raru, the father of Te Teira, had no voice (as a chief); but when he got back to Waitara, to the land of his ancestors, then he spoke with authority as to the possessions of his forefathers. Therefore I say that Te Teira's conduct is straightforward, but William King's is wrong. William King tries to maintain his land-holding influence (*mana-pupuri-whenua*), the "mana" of New Zealand; but perhaps one reason is jealousy of the pakeha. I have land at Rotorua by virtue of my mother, but perhaps her relations who occupy it would not admit my claim. Nevertheless it is true that the land is mine. Now, if I should ask the old men to point out the boundaries (of this land) they would probably say that they had forgotten them. Perhaps this is the case with Te Teira and Wiremu Kingi. Te Teira (declares that he) knows the boundaries of his ancestors. One thing I must remark on, namely the extent of this piece (of land)—500 acres. No single individual ever cultivates so large a plantation as that; however, that may include the claims of Ropoa and others, and this may account for its extent. We know very well that according to our customs, might is right. Our Maori plan is seizure. Let us enquire into these matters. Kapiti, for instance, was taken. The chieftainship of that belongs to me. According to Maori custom, when a man prevails in a struggle he claims it (the land). Now let us approve of the course pursued by Te Teira. He sold (the land) under the light of day. He gave a *parawai* as a covering for this land. William King did not take it away so as to repudiate Te Teira's claim to the land. Should I come forward and offer land for sale, perhaps some relative of mine would say "You have no land." In that case, if I had strength I would carry my purpose. We, the Maories, have no fixed rules. Consider this case: the land now belonging to Ngatitōa was taken by them from the original occupants; they gave a portion of it to Ngatiraukawa, and another portion to the Ngatiawa—to the tribes who were always kindling fires (or residing) on that land.

Hohepa Tamahengia, (Ngatitōa) Porirua:—Listen ye of the runanga! My words shall have reference to my land; afterwards I shall speak about Taranaki. \* \* I shall now speak about Waitara. I shall not attempt to oppose the Governor's plan. Let the Governor's plan be allowed to stand. What we are now looking at is the Maori side. Leave the Governor's plan to himself. But if the Maori side be arranged, then let the men go and carry the words of this Conference to Wiremu Kingi. I shall urge this a second time, and a third time, and even to a sixth and seventh time. If I am not listened to after the seventh appeal, then I shall say, I will endeavour no longer with you. The old men, Manuwhiri and Takaratai, who may make the path and enquire into this evil, are still living. I say nothing about the disputed piece of land at Waitara—that belongs to the Governor; that piece of land will not occasion much concern. Consider this: the rain descends and it is afterwards fine; the gale bloweth and it is followed by a calm. So it is with man. But perhaps you (the Pakehas) are strong to keep up your anger; for you are a people accustomed to that work. I shall continue to urge that the Waitara affair be settled.

Horomona Toremi, (Ngatiraukawa,) Otaki:—Port Nicholson had been sold by Ngatiawa. They then sold Taranaki. The boundary was at Mokau: it was Mr. Spain who fixed it at Parininihi and Te Taniwha. I therefore concluded that Ngatiawa had sold their lands to the Pakeha. Potatau saw this and sold the very same land: the boundary of the land sold by Potatau extended as far as Piraunui. What is the use of preferring a claim to lands already sold, and taking forcible possession again? I have finished on that subject.

Hukiki, (Ngatiraukawa, Otaki): I will now express my view about Taranaki. When Teira sold his land and laid down the *parawai* as a pledge, William King did not come to take up the challenge but went away.

Hetaraka Nero, (Ngatimahanga,) Whangaroa: My words refer to Te Teira and William King. Mr. McLean and the Governor were staying at that place (Taranaki). When the land was offered for sale, Mr. McLean investigated the title according to the custom of land purchase. The nature of Te Teira's claim induced the Governor to side with him; then William King was grieved, evil sprang up in his heart, and he declared war with the Governor. Subsequently there was murder, and the evil then assumed a more serious aspect. I shall now speak of Waikato. The Waikato (people) set up a Maori king. The object of this was to hold the land. When Te Rangitake heard that his own idea was being carried out, his heart rejoiced. I am speaking ill of Waikato and Wiremu Kingi. I say, that evil will increase. In these times my ears have heard indistinctly that those tribes have been acting treacherously, and the opinion (respecting them) cannot be concealed. This Island is filled with

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the evils of the Maories. I am willing that you should go and carry goodness to that place. These are the good things—peace and goodwill. But there is no atonement for these offences against the Government.

Arama Karaka, (Te Uriohau,) Kaipara :—Mr. McLean has said that there are two roots. My thoughts are dwelling on that. I shall also keep my attention to the Taranaki question. I shall give utterance to my thoughts that you may hear them. The Gospel weighed on the minds of men, and the light of day shone forth. Then Rangihaeata said, Let there be night, and it was night. Ngapuhi did the like. By carrying the Gospel to the dark places, light sprang up. In this instance William King is sitting in darkness : let him be brought into the light. Listen you !—Mr. McLean and Mr. Smith. The land belonged to Te Teira and William King. Te Teira parted with his portion. William King saw this, and he thought that his half was not left to him. I say, let William King's half be made good to him. If the Conference should go to Taranaki, and say to William King, "Give up the land to the Governor, and you shall have one half of the payment," and he should refuse, then the Governor is right and he (William King) is wrong. This is a suggestion of my own ; it is not an opinion emanating from the Conference.

[*In Maori Messenger, published by authority in the Native language : July, August, and Sept., 1860.*]

3.—*Evidence of Hone Wetere (Waikato Chief) before the Select Committee of House of Representatives on Waikato Affairs, 1860.*

*Evidence of Hone Wetere.*

What special errand has brought you to Auckland ?—The cause of my coming is, the going to Taranaki. Tapihana and Tuhoro said to me, "Let us go to Taranaki and fight." I replied, "Let us fight here." He said, "Let us go to Taranaki to fight, for we have sinned there. We therefore say, let us go there and fight. You go to Auckland, and then let us all go to Waitara to fight. The fighting that we shall engage in there will be talking, for this war to end. If indeed the land was here in Waikato, it would be right for us to talk here : as it is, Waitara is the land about which we have sinned, let it therefore be taken there, there let us talk. There also let you and Mr. McLean look and see whether the people are right or wrong ; and let this war be terminated upon that land. If the Governor says that the war shall not end till the people are killed, good and well. This is all that we two have to say to you." I was then sent by the old Chiefs at Kawhia, by Kikihoi and Takerei, to bring their words, in order also that they might hear the word of the Governor, as to whether the war should continue or cease. These were the two words mentioned to me by those old Chiefs. Was it to be still persisted in, or was it to end ?

[*In Sess. Pap. Gen. Assembly, 1860, F. No. 3.*]

4. *Extracts from Letter from Ihaia and Tamati addressed to the New Plymouth Settlers.*

*Ihaia and Tamati,  
15th July, 1860.*

FRIENDS :—Formerly we, the Maoris, alone lived in this New Zealand ; we did wrong one to another, made war on one another, we ate one another, we exterminated one another. Some had deserted the land, some were enslaved, the remnant that was spared went to seek other lands.

Now this was the arrangement of this [Ngatiawa] land. Mokau was the boundary on the North, Nga Motu [the Sugar Loaves] the boundary on the South : beyond were Taranaki and Ngatiruanui.

All was quite deserted : the land, the sea, the streams and lakes, the forest, the rocks, were deserted : the food, the property, the work was deserted : the dead and the sick were deserted : the land marks (or divisions of property) were deserted.

Then came the pakeha hither by sea from other dwellings,—they came to this land and the Maoris allowed them,—they came by chance to this place,—they came to a place whose inhabitants had left it. There were few men here,—the men were a remnant, a handful returned from slavery.

And the pakeha asked "Where are the men of this place," and they answered "They have been driven away by war ; we few have come back from another land." And the pakeha said "Are you willing to sell us this land ?" and they replied "We are willing to sell it that it may not be merely barren ; presently our enemies will come, and our places will be taken quite from us."

So payment was made : it was not said, "let the place be simply taken," although the men were few : the Pakehas did not say, "let it be taken," but the land was quietly paid for.

Now the pakeha thoroughly occupied the purchase made with their money ; and the Maoris living in the house of bondage, and those that had fled, heard of it ; they heard that the land had been occupied and they said : "Ah ! ah ! the land has revived, the men have revived, let us return to the land." So they returned. Their return was in a friendly manner. The thought of the pakeha was "let us dwell together, let us work together."

The Maoris began to dispute with the pakeha. When the Governor saw it, he removed the pakeha to one spot to dwell. Afterwards, the pakeha made a second payment for the land, and afterwards a third ; then I said : "Ah ! ah ! very great indeed is the goodness of the pakeha, he has not said the payment ceases at the first time."

My friends the pakeha, wholly through you this land and the men of this land have become independent ; do not say that I have seen this your goodness to-day for the first time, I knew it formerly. At the coming here of Governor Grey I was urgent that the land might be surrendered and paid for by him : that we might live there together, we the Maori and the pakeha. And my urgency did not end then, but continued throughout the days of Governor Grey, till the death of Rawiri.

The death of Rawiri was owing to obstinacy about the land. Rawiri was killed for his friendly disposition to the Pakeha. My interference on the occasion of the death of Rawiri was because I thought him a man favorable to the pakeha, a man whose opinion was like my own; if he had been evil-disposed to the pakeha, then I should not have interfered; if he had been a parent or relative, I should not have interfered. But, however, Rawiri and the rest were dead: it was by God that they were made chiefs of the land, and I was urgent that the land should be a payment for their deaths. By the obstinacy of Katatore, he became a payment. If he had yielded, the land would have died, he would have been spared.

Although after his death all the *hapu* gathered together to overthrow and kill me, I was urgent for the sale of the land. Although my pa, the "Karaka," was besieged, that I might be killed, when I earnestly prayed God that I might be saved, I urgently wrote to the Governor that he would purchase the land. However, I arrived at Mimi—(I know that the Governor is a parent to me)—I was urgent at that time about the sale in my letter to the Governor: although my word at that time did not influence him, what was that to me? my urgency is fixed in my heart. Although peace was renewed to me, I did not say, through this peace I shall be preserved; but I consider that my security is from the pakeha. And at this day I know that my security is great, for the pakeha is a bulwark for me against destruction.

This is all from

IHAIA KIRIKUMARA,  
and TAMATI TIRAURAU.

[In Taranaki Herald, July 1860.]

Waitara, July 15, 1860.

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&c.

Ihaia's Letter.

##### 5. Extracts from Letter of Rev. Riwai te Ahu to the Superintendent of Wellington.

We never imagined that this Governor would adopt a course different from that of other Governors. They, failing in their endeavours to obtain that land, desisted. Now, we are altogether perplexed, and exclaim, Alas! this is a new proceeding on the part of our Queen. But we think that the Governor must have been deceived by Teira and those acting with him, and the Land Commissioner of Taranaki, and that is why he was so hasty in sending his soldiers to Waitara to frighten the men and women who turned his surveyors off their own pieces of land, and land belonging to us, in order that he might seize those lands. For instance, Mr. C. W. Richmond writes, Taranaki, March, 1860, (which has been heard by everybody), "Teira's title has been fully investigated, and is perfectly good: there is no one to deny his title." Yes, his title is good to his own pieces within the boundaries of that land—two or three pieces. Our title is equally good to our own pieces: some have one, or two, or three, or four within that block. William King stated this; but what he said has been misinterpreted by the Land Commissioner of Taranaki, who asserts that William King said the whole of the land was Teira's. It was his determination to take the land by force, and his ignorance of the Maori language, which made him pervert what William King said. \* \* \*

Rev. Riwai te Ahu.  
23rd June, 1860.

Now we deny the following statements which have been put forth—That the land is Teira's, that it belongs to his tribes, to Ngatihinga—and that they allowed William King to live on that land after his return from Waikanae—that his occupation of it was unjustifiable, and that he had never before occupied it. Do they mean to say that the land did not belong to William King, and that he had no right to object to the sale? Listen. This statement would only be believed by pakehas, and tribes who are strangers to the facts of the case; but we of Ngatiawa, who live at Waikanae and Wellington, Queen Charlotte's Sound and Massacre Bay, we will never allow Teira's title, or say, that William King has put forward an unfounded claim. Only those members of Ngatiawa who are deceiving the Government and the pakehas will deny William King's claim or uphold Teira's. The Land Commissioner of Taranaki seemed to imagine that Teira and his party are the only members of the Ngatihinga and Ngatituaho; they did not seem to know that Wiremu Te Patukakariki is the chief of that *hapu*. Besides Nopera Te Kaoma and others who are of those *hapu*, who did not consent and whose objections were not listened to by the Land Commissioner at Taranaki. Listen. It was Wiremu Te Patukakariki's wife and their two daughters with some other women of that *hapu* who turned the Government surveyors off their own pieces of land.

Now this land was not divided into different portions for the different *hapu* for Ngatihinga and Ngatituaho, and for Ngatikura and Ngatienuku and other *hapu*, holding within the block which has been purchased by the Governor. No, they were all intermingled; the boundaries of each individual's land having been marked by stone-posts by our ancestors: besides these *hapu* are not of two different tribes; they are all of one tribe. All these different portions of land have names given them by our ancestors: the name of William King's is *Te Porepore*. One portion of land belonging to his son and daughter, which was the property of their mother, is that on which Te Hurirapa's pa stood, which was burnt by the soldiers. Another portion of land is at Orapa, to the south of where their old pa stood. All these portions are contained in the block asserted to be Teira's; and have all been taken by the Governor.

All the portions of land belonging to us and those who opposed the sale—Ngatikura and Ngatienuku and some of Ngatihinga and Ngatituaho, besides portions which belong to the *hapu*, have all been included in the block of land which the Land Commissioner of Taranaki asserts to belong to Teira alone. What can be the meaning of this expression—"William King was permitted to live on that land by their consent, when he returned from Waikanae?" Who can venture to make such an assertion? It was no such thing; each man knew the portion of land inherited from his ancestors. Was

NATIVE SPEECHES,  
&c.

it by their assent that Te Porepore became the property of William King when he returned from Waikanae? Was it by their own permission that Te Hurirapa became the property of his children when they returned from Waikanae — which has been taken away by the soldiers? Was it by their permission that our lands inherited from our ancestors, became our property — which lands have all been taken from us at the point of the sword? In my opinion, such an assertion is like deadly poison. According to the opinion of the Land Commissioner of Taranaki, Teira was quite justified in asserting his right to sell the whole of that block, and William King was utterly wrong (in denying it.) In our opinion, Teira's act was a great crime, and nothing can be said in his behalf which can hide his unjust act. \* \* \*

(*Sess. Pap. Gen. Assembly 1860, E, No. 4.*)

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## APPENDIX E.

### MISCELLANEOUS PAPERS.

*1. Extracts from Speech of the Chief Justice of New Zealand in the Legislative Council, 29 August, 1860, on the motion for an Address to the Governor approving his Policy.*

I pray the House to bear with me while I refer to a few of the leading circumstances by which His Excellency was forced into the present war.

*Speech of Chief Justice, August 1860.*

Sir, it seems to me that, from the moment when, in the beginning of March, 1859, Te Teira offered for sale his interest in that block of land and placed his mat before the Governor's feet in token of its surrender, His Excellency was bound by every consideration of Treaty and of Justice to accept the offer to the extent and upon the conditions on which he then accepted it. I think further, that from the moment when Wiremu Kingi, after passing with insult and defiance from the Governor's presence upon that occasion, after declining for twelve months to explain the nature of his own claim (if such he had) or the grounds of his prohibition upon the sale; after resisting the survey by force, and rising with his followers in arms;—when, I say, after these events this same chief refused even to meet His Excellency under a written promise of safety, but responded to the Governor's forbearance only by war-dances, war pahi, and the murder of unarmed settlers; His Excellency had no alternative but to accept the issue thus forced upon him. Sir, I have sought in vain through the mass of papers printed for our information, for evidence of that haste and precipitancy which has been hinted rather than imputed to the Government. After the first offer by Te Teira in March, 1859, his importunities were incessant. The letter of the 15th of March, 1859, from himself and Retimana, was followed by that of the 20th of March following. Again, on the 20th April, 1859, his letter is signed by himself and three other claimants, while that of May 23rd in the same year has seven signatures. These were followed by the letter of the 18th October, 1859, and lastly, his pressing appeal of the 19th January, 1860, is guaranteed by the signatures of nine other natives urging the completion of the purchase. Nothing could be more earnest than the language of these appeals to complete a sale, which the preemptive right of the Crown restricted these claimants from effecting with any other purchaser whatever. And what course did His Excellency pursue? There was no subterfuge, no possibility of mistake. Having accepted the original offer only upon condition that the title was undisputed, and dealing with Teira as for a proprietary right, the Governor wrote, through the Assistant Native Secretary (Mr. Smith), both to Te Teira and Wiremu Kingi those explanatory letters of the 2nd April, 1859. He told Te Teira, "The Governor consents to your word, that is, as regards your own individual piece, but be careful your boundary does not encroach upon the land of any person who objects to sell." To Wiremu Kingi himself he wrote thus: "Word has come from Te Teira offering for sale his piece of land at Waitara. The Governor has consented to his word, *that is as regards his own individual piece, not that which belongs to any other persons.* The same anxiety to avoid injustice is shown by the letter of the 19th July, 1859, wherein Mr. Smith answers Te Teira with assurances of the Governor's purpose, but adds, "The Governor is in favour of the land being purchased, but the best thing, in his estimation, is for peace to be preserved at Taranaki." But, Sir, there is one remarkable fact patent upon these papers, which I ask the House to remember. For it has been alleged, not only that the claims of Wiremu Kingi were disregarded, but that the District Commissioner at New Plymouth (Mr. Parris) hastened the purchase, and provoked the war. Let hon. members consult the correspondence, and they will find that Mr. Parris actually held back the purchase in his anxiety for peace; Te Teira, in his letter of the 20th April, 1859, even remonstrating on this ground: and Mr. Parris, in one of his letters, excuses himself for having delayed taking steps in the matter, by alleging that he was awaiting the result of meetings to establish peace between Wiremu Kingi and Ihaia, a circumstance which I shall recall to the attention of the Council when I deal with another branch of this subject. And what meanwhile had been the bearing of Wiremu Kingi? He had been informed that His Excellency meant to deal only with the proprietary right to one individual piece of land. In what spirit was His Excellency met? I will not weary the House by referring in detail to all the facts which have been so long before the public, although I will not intentionally omit one that appears to me to affect the questions raised by this Address. Honourable gentlemen know what passed, when, on the 29th November, 1859, the instalment of £100 was paid by Mr. Parris to Teira, in the presence of Wiremu Kingi, who had been invited to come and explain the meaning of his objection; how Kingi contented himself with statements such as, "The land is theirs, but I will not let them sell it"—"although they have floated it, I will not let it go to sea;"—and so on. But I do ask hon. gentlemen to remember, that, while he is reported to have met the candour of His Excellency by meanwhile intriguing with the party of King Potatau on the Waikato, they will not find a trace of any assertion of right as belonging to himself. It will be seen from the accounts given by His Excellency, as well as from Mr. Richmond's memorandum, that, when Teira offered the land for sale in the presence of Wiremu Kingi, other Natives rose and stated their proprietary rights. They were at once heard, and their claims entertained. W. Kingi therefore knew from the outset, that he had only to propound the nature of his claim, in order to secure his utmost right. But he would not. "Waitara belongs to the whole of us;" "The land shall never be given to you;" "I will not let them sell it;" and such like defiant

## MISCELLANEOUS.

*Speech of Chief  
Justice.  
August, 1860.*

but unexplained protests are all that could be extracted from him during a twelvemonth of patient investigation. I am aware that I shall be told, the words in Maori have a profound and hidden meaning not intelligible to the unlearned. And when we have applied our simple faculties to apparently plain expressions, some recondite Maori scholar tells us, "Oh! if you knew the habits of thought of the Native mind, you would discover that those expressions convey a meaning very different from the plain import of the words themselves." To be sure, the scholars themselves may differ upon the interpretation; but, Sir, His Excellency is compelled to act upon the light afforded to his understanding. Was it then too much to expect that even Wiremu Kingi, lofty and proud and ancestral chief as he may be, should have condescended during the interval between March 1859, and March 1860, to state the meaning of his conduct? But no! after twelvemonths of sulky defiance, he treated the interview proffered by Her Majesty's Representative with scorn; Mr. Parris and another gentleman, with Mr. Whitsley, a Wesleyan Missionary, were bandied from place to place, and when Mr. Whiteley at last found and prevailed on this (so-called) proud chief to admit a conference with Mr. Parris, the utmost of his condescension was, that he would send his decision to His Excellency next day. I do not understand those gentlemen, who find in such conduct and language an intelligible claim of right to land, or any other declaration than a declaration of war. Notwithstanding all this, it may be said, it was in the Governor's control, whether he would originally accept Teira's offer, or at length accept Kingi's challenge. In one sense it was, viz., in that any man may physically control the motion of his own limbs. No doubt it was within the Governor's control whether he would direct the survey to proceed in the sense suggested, but it appears to me the conduct of Wiremu Kingi left nothing to a sense of duty but to order that survey. And when to the above facts I add this one, viz., the ready supply of powder and ball cartridge in the hands of the Natives around Taranaki, I cannot resist the conclusion that the enemy had long been preparing for the issue of peace or war, which at length was cloaked under a prohibited land sale, and which the Governor had no alternative but to accept. Sir, I will not discuss Wiremu Kingi's title. A large proportion of these voluminous papers is devoted to that question, which is, in my view, immaterial in considering the present Address. Indeed this House, and the General Assembly of New Zealand, have selected me, as the only man in our Colonial Parliament not capable of forming an opinion upon Maori title. By the "Native Territorial Rights Act, 1858," an Act which, although disallowed by Her Majesty, had been sanctioned by the General Assembly, "It is declared that no Court of Law or Equity within the Colony hath or ought to have cognizance of any question of or affecting the title or right of occupancy of the Aboriginal Natives, as amongst themselves," except in cases bearing no analogy to the present. I am compelled to personate a Court of Law and of Equity, and so am relieved from all responsibility. True, I have carefully considered the whole of those printed papers, and have obtained a proof of Archleacon Hadfield's evidence, and contrasted it with Mr. McLean's. I have found much inconsistency and contradiction but no novelty, and have derived from their perusal this consolation, viz., of reflecting that little as I know of the Native Title, of the (so-called) "Maori law of real property," the generality of people even of the learned, the *periti*, know little more. \* \* \* On the present occasion it is enough to say that if Wiremu Kingi had any title, tribal or otherwise, he owes it to himself that his title was not recognised; seeing that the purchase from Teira and others was not hastily concluded, and that while His Excellency's conduct was marked by patient and thoughtful reserve, he was met not only with defiance but contempt. But, Sir, when I assert that His Excellency was forced into this war by circumstances beyond his control, I look a little beyond this isolated purchase of Teira's land. I ask in what condition His Excellency found the Native Race? And when it is said that Kingi's dispute should have been referred to some tribunal, I ask what tribunal? If you tell me to the Commissioners, I ask what Commissioners? If Kingi had been summoned before some tribunal and had, as assuredly he would have, refused to come, what then? Sir, the position of the Native race with reference to titles to land is a most extraordinary and anomalous one. They are practically without rights, for they have been lately pronounced by the Law Officers of the Crown to be without a remedy.—[*Debate in Legislative Council, August 29, 1860.*]

2. *Extracts from Speech of the Hon W. Swainson in the Legislative Council, 29 August, 1860.*

*Speech of Hon. Mr.  
Swainson.*

As to the validity of the purchase, I am aware that from the outset very confident opinions on both sides of the question have been expressed by very many persons having, as I believe, very imperfect information on the subject. I believe with the Native Minister, Mr. Richmond, that "the question of title is one on which persons not versed in the intricacies of Native usage cannot expect to form an independent judgment." I believe that to effect a safe and satisfactory purchase of land from the Natives of New Zealand requires as much time, as much care, and as much knowledge of the Native law of real property as to complete the purchase of an English baronial estate. And, speaking for myself, I have not yet had before me the information necessary to form a sound conclusion; and as to the validity of the Waitara purchase, up to the present moment I have held my judgment almost entirely in suspense. But however valid the purchase may have been, the circumstances which have arisen out of it have brought strikingly to light the want of some regularly constituted tribunal for judicially determining disputed claims to land. It may be in the recollection of some members of the Council that by the "Native Territorial Rights Bill," passed during the last session of the Assembly, it was distinctly declared that the Courts of Law have no cognizance of any question affecting the title of the Natives as amongst themselves, to land over which the Native title has never been extinguished. And I believe that by persons at a distance ignorant of the great difficulty of the subject, it will be thought a thing incredible that after the lapse of twenty years, that after the British Government have for



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*Speech of Hon. Mr. Swainson.*

twenty years professed to govern the country, one half of Her Majesty's subjects in New Zealand, the acknowledged owners of the soil, should be left without any recognised law and without any constitutional tribunal for legally determining their conflicting claims to land; and that having no law and no tribunals they are literally left without an alternative, in case of dispute, but to have recourse to arms. I do not mean to say, Sir, that if any such tribunal had existed, the Native disturbances at Taranaki would never have arisen; neither do I make the remark in disparagement of the present Ministry. I believe that the present Government is no more to blame for the want of such a tribunal than the Government who have preceded them. I am the more careful to make this statement because the Governor has been blamed, but as I believe unjustly blamed, for not having submitted the claims of William King to a Court of Law. The Governor might indeed have held his hand, but it was impossible for the Governor, without the aid of the Legislature, to constitute a tribunal whose decision should have any legally binding force. I rejoice to observe, however, that His Excellency is alive to the need of such a tribunal, and that in a message to the Native Conference at Kohimarama, he has pointedly submitted the question for their special consideration; and I trust that the Government themselves will lose no time in endeavouring to ascertain in what manner a Land Court may be so constituted as to secure the confidence of the Native people. \* \* \*

As to the justice of the war, Sir, depending as it does on the validity of the purchase, I have as yet arrived at no conclusion further than this: that until the contrary shall be proved it is due to the Government to assume that their proceedings have been just. The time will no doubt come when the case will be fully investigated and dispassionately judged, and I yield to no man in the earnest hope that it will be found that throughout the whole of our proceedings, our quarrel has been just. I cannot even contemplate the possibility of any other conclusion without pain.—[*Debate in Legislative Council, 29 August 1860.*]

3.—*Extract from Evidence of the Right Rev. the Lord Bishop of New Zealand before the Select Committee of the House of Representatives on Waikato Affairs, October, 1860.*

*Bishop of New Zealand's Evidence.*

1134. Did you observe that in that period the desire to be governed by English Law was increasing or otherwise among the Natives?—I observed in my last journey, all along the East Coast, a decided falling back into a state of anarchy, accompanied, certainly, with a deep feeling that things were going wrong. They again and again lamented it. At Tauranga I found a Native war; another at Wakatane; another scarcely settled at Tumupahore; a fourth at Ahuriri, partially settled, but likely to break out at any time; besides the unsettled question which I had seen in the previous year at Taranaki. The one cause of all these Native wars was land—land disputes, I mean, between the Natives themselves; but I believe aggravated by the idea that the land, if not claimed by the party believing themselves to be the rightful owners, might be sold without their consent to the Government. I attribute many of these Native quarrels to the increased excitement generally prevailing about the purchase of land; but not to any specific act on the part of any Government officers engaged in the purchase of land, except perhaps in the case of Taranaki. The substance of my answer to the question must be, that there has been less law and more anarchy than formerly, with a real and earnest desire for a better state of things. I say this as the general characteristic of the Native mind throughout the island.

1152. Will you explain more fully what you meant by saying, in a former reply, that, in cases where Natives were quarrelling among themselves about land, their quarrels were aggravated by the idea that, unless the land forming the subject of dispute was claimed by those who considered themselves its rightful owners, it might be sold without their consent to the Government?—I believe that the feeling of the Natives was that if they did not assert their rights they would be held barred by *laches*. They did not know but that any particular piece of land might be sold at any moment. I believe that it is in accordance with Native customs that any person not asserting a claim at the time of sale would be barred.—[*Sess. Pap. of General Assembly, 1860, F. No. 3.*]

4.—*Extract from Letter of Rev. J. Morgan to the Select Committee of the House of Representatives on Waikato Affairs, October, 1860.*

I will, however, reply briefly to the several points brought forward in your letter.

I. Question—"The true causes of the origin and progress of the King movement, its present aspect, its future direction?"

*Rev. J. Morgan, Oct., 1860.*

First. "The origin of the King movement." 1st. A land league to prevent the sale of land by aboriginal tribes or owners to the Government; or the private sale of such lands to individuals of the European or "pakeha" race. 2nd. A desire to stop the rapid advance of European colonization. 3rd. A desire to introduce a code of laws suited to their own state and requirements. 4th. And chiefly, a desire to establish, first in the Waikato, and afterwards gradually in all Maori districts, an independent sovereignty over all Maori and European residents in such districts. Many of the aborigines saw with fear the rapid advance of European colonization, and the earnest desire of the Pakeha to obtain possession of their lands. They also noticed what they considered the confined bounds to which some tribes who had sold land were reduced. As the promoters of this league knew there were many tribes favourably disposed to the sale of land and European colonization, they felt that their league would be

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Rev. J. Morgan  
Oct., 1860.

powerless unless they could unite the various tribes of Waikato, and afterwards other districts, under one Chief or King, whose flag, when received, even by the minority of any tribe in any district, should cover and prohibit the sale to Europeans of all lands in such district.

Second. The aborigines feared, as their own numbers were being so rapidly diminished by death, that, unless European colonization could be arrested, that the white settlers would in a few years greatly outnumber them, and that then the Treaty of Waitangi would be set aside, and their lands seized by the English Government.

\* \* \* \* \* The present aspect of the King movement in Upper Waikato is warlike—not that the Kingites wish for war for the sake of war, for they rather wish for peace, but they desire to be allowed quietly to carry out their plans; and there is on their part a determination to establish and uphold in all Maori districts an independent sovereignty over all Maories and Europeans resident therein, to the utter exclusion of any interference on the part of the Government; or, in other words, the vital question with the Maori Kingites now is, whether the King or the Queen shall possess the *mana* of New Zealand. Hence the frequent expressions of the Waikatos now in arms, “We are going to fight for New Zealand. We sent them (*i.e.*, to Taranaki) the flag, and it is our duty to follow the King’s flag. We are fighting for the *mana* of our island.” The Maori King movement is the strength of the Taranaki war. I must, however, remind the Select Committee of what I stated on the second page of this letter—the fears entertained by many of the aborigines that, as soon as the white settlers outnumber them, the Treaty of Waitangi will be laid aside, and their lands seized by the Government.

“Its probable direction.”—This entirely depends on the issue of the present war; which, on the part of the Waikato, is a struggle for the *mana* of the Maori King, and not for the small piece of land sold by Te Teira at Waitara. They only considered that small block of land as it refers to the *mana* of the King over all lands on which his flag has been planted; or, in other words, the Waikatos would resign that particular spot, if Wm. King would also do the same: provided that the Governor would promise not in future to purchase lands in any district in which the King’s flag had been hoisted.

[*Sess. Pap. Gen. Assembly, 1860, F. No. 3.*]

5.—*Extract from a pamphlet on the King Movement by the Rev. T. BUDDLE, 1860.*

Rev. T. Buddle,  
Pamphlet, 1860.

As there is such frequent reference to the Taranaki war in the speeches delivered at the Meetings held in connection with this King movement, it may be necessary to notice its origin. When His Excellency the Governor visited New Plymouth in March 1859, a block of land situated on the south bank of Waitara was offered for sale by a Chief named Teira, supported by his friends who were joint claimants. The Governor accepted the offer, provided that the ownership of the land was undisputed, and Teira laid at His Excellency’s feet a *Parawai* (a Taranaki Mat) as a symbol that the offer was accepted. William King was present, but did not take away the Mat, as he should have done according to Native custom if he wished to deny Teira’s right to sell the land: nor did he condescend to assert in a becoming manner any claims on his own behalf, but in an insulting and defiant tone arose and left the room saying, “I will not permit the sale of Waitara to the pakeha. Waitara is in my hands, I will not give it up; *Ekore, Ekore, Ekore.* (*i.e.* I will not, I will not, I will not). I have spoken.” \* \* \*

The land thus given over to the King is not to be alienated without his consent. This might be all fair if the party stopped here. But they resolve that no land shall be sold within their territory, even though the owner may not have joined the league. Any man therefore attempting to sell a block of land, would subject himself to summary proceedings at war. And any attempt to take possession of the purchased block by the Government would be resisted by force of arms—as in the case of the land at Waitara.

The Taranaki people, not by W. King’s direction but at the instigation of a man named Erueti, came to Waikato for the King’s flag and handed over Waitara to the league—no doubt in order to draw Waikato into the quarrel and secure their powerful aid against the Governor. This is the reason assigned by the party who have gone to aid W. King, for their having taken up arms in his defence; “Our flag is there,” they say. Others of the extreme King party only wait to ascertain whether their flag reached Waitara before the Queen’s money was paid or after, declaring, that if the flag was first there the land shall not be given up, but that they shall go and take it. They do not profess to claim the land for W. King on the ground either of hereditary or manorial right, but because Potatau gave it to him, because it now belongs to the land league, and because they consider he is engaged in fighting for the principles of that confederation. But does not the objection to sell land apply only to sales to the government? Are the natives not desirous to negotiate sales with private purchasers? This has sometimes been asserted, but it is a mistake. The objection does not lie against sales to the Government merely, but *against all sales*, absolutely against any further alienation whatever, and not only are they opposed to absolute sale but also to leasing. \* \* \*

Others were influenced by exaggerated ideas of the value of native land, derived from the increased value of lands improved by English labour and capital, and argued that to sell land was to enrich the pakeha and impoverish themselves. And numbers opposed the sale from barbaric pride,—dwelling alone on these large tracts of land, the felt they could maintain individually a degree of self-respect, importance, and independence, that would be lost when they came to mingle with the better informed and civilized European; that in fact if they parted with their land, they would soon be made to feel their inferiority, and must become the pakeha’s slave. These opponents pushed their views, and

sought to make it *Te Tikanga o te Iwi*, (the Law of the Tribe) that no individual or family should alienate land without the consent of the whole tribe. To make the law popular and binding, they determined on a more general meeting, and to invite all the tribes along the coast to join them in this measure. \* \* \*

This was the origin of the notorious Taranaki land league, which evidently contains the elements of the present King movement; and which has proved so fruitful a source of dissension among the tribes of that district, caused so much bloodshed, and brought about the present collision between W. King and His Excellency the Governor.—[*Pamphlet, Origin of King Movement, 1860.*]

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Rev. T. Buddle,  
*Pamphlet, 1860.*

6. *Extracts from the Pastoral Letter of the Bishop of New Zealand to the Members of the Church of England at New Plymouth, 1855.*

All I ask for is an entire abstinence from threats, and a *bonâ fide* transaction with all classes of real owners after careful investigation of title. Where claims of various kinds are made to the same land, then satisfy them all; as for instance, the Bell Block was first paid for to the sixty Ngatiawa who were found there by the agents of the New Zealand Company, then to the Waikato tribes, who claimed the land by right of conquest; and lastly, to the fugitives and captives who returned to claim it by inheritance. This may have been a troublesome process; but so is a chancery suit; at all events, the Bell Block settlers are now in quiet possession, and, though nearest the scene of warfare, appear to be less alarmed than the inhabitants of the town. This happy result may fairly be attributed to the judicious manner in which the purchases were completed; as described by Mr. Hursthouse, p. 48. "The completion of these purchases occupied several months; the Government officers were scrupulous in obtaining the consent of every individual interested; title deeds in the Maori tongue, shewing boundaries and reserves, were duly signed by men, women, and even children; and the whole business, conducted with the greatest fairness and publicity, was concluded to the satisfaction of both Native and European." As also in page 50: "By the tact displayed in the negotiations for the Bell Block the very men who in its first stages, were most opposed to it, were so won over, as to become anxious to sell more land." The same author goes on to state in p. 51. "Under Governor Grey's excellent arrangements, then, a tract of land of nearly 30,000 acres, in a district which is proverbially the garden of New Zealand, has already been peacefully obtained, at an expense of ten pence per acre. When required, more land is procurable from the Southern natives: whilst it is almost certain that the greater part of the Company's original block will eventually be acquired in a similar manner."

Bishop of New Zealand  
*Pastoral Letter, 1855.*

I find therefore upon the testimony of your most constant and zealous advocate, that land equal in quantity to one half of the 60,000 acres originally contemplated by the plan of the settlement, has already been acquired: and that there is reason to hope that the whole of the Company's block will eventually be acquired. \* \* \*

When I first visited New Plymouth in October, 1842, I was accompanied by nearly forty men of the tribe, who came avowedly to ascertain whether the state of the country would allow of their return. Every man of this party knew the exact spot which had belonged to his forefathers. The migration to the remote Chatham Island had neither caused Taranaki to be forgotten, nor the recollection of their local claims to be lost. I ascertained in the Chatham Island to what part of this country they laid claim, and I have just passed through their settlements to the south of the White Cliffs, and found them re-established in their own homes. The head teacher of the tribe, and one of the first converts to Christianity among them, is about to be admitted to Holy Orders, which led me to ask, whether he had a claim to any land which might be available for his maintenance. I was immediately informed of the exact spot and of the grounds of his title. From these and similar facts I draw the conclusion, that every member of the Ngatiawa tribe knows his own land in the Taranaki district, and desires to return to it. \* \* \*

Let the tribe be once assembled, in undisputed possession of its ancient territory, except such portions as have been already sold, and let each freeholder's claim be duly investigated and a Crown title granted to each, as an individual proprietor, with full power to dispose of his land by sale, lease, or bequest; and then I believe it will be found, that land will be obtained by new settlers on far easier terms, by purchase or lease from the natives, than from their own countrymen.

2. I desire to see each Native land owner secured by a Crown grant for his own individual property; and registered as a voter, on the same qualification as an Englishman.

I scarcely think it necessary to notice the charge brought against Archdeacon Hadfield, of having stopped "340 men, who had assembled at Waikanae, bent upon proceeding to Taranaki, to avenge the death of Rawiri;" lest, "in avenging the death of Rawiri, they should break up the confederacy, and so secure more land to the settlement." Now you must remember that every one of these 340 men believes himself to be a proprietor of land in this district, and that their leading chief, Te Puni, had already sent his son Henry to claim the land on which he is now settled: and that their minds were not made up on the land question is evident from the statement of the same writer, that the next thing which the same party did, was to consent to a plan "for putting an end to the evil, by putting their veto upon all future sales of land in this district."

[Printed at the College Press, Auckland, August 1855.]

## MISCELLANEOUS.

7. *Extracts from Papers by Mr. White, Interpreter in the Native Office.*

Mr. J. White,  
June 1860.

It was in the war of these brothers that the ancestor of Wi Kingi came from Waikato to Waitara, and took a wife from the youngest female branch of the family of Teira, and lived with her at an old pa called Manukorihi, on the north bank of Waitara. This old pa was abandoned in 1826, but, up to this time, Wi Kingi's relatives lived there and were the last to leave; hence his *hapu*, or branch of the Ngatiawa are called to this day Manukorihi. Up to the year 1826 Wi Kingi's relatives had never cultivated on the South side of Waitara but once, which was allowed for the following reason:—A number of the Ngatiawa went out of the Waitara in their canoes sea-fishing; a gale came on and swamped all but one; this canoe, with the men, landed at the Sugar Loaves, and, according to Maori law, they staid for some time before they went home to weep over their lost associates. As the people in Manukorihi pa fully believed all the party were dead, they wept for their husbands, brothers, fathers, &c., but not so with Wi Kingi's relatives,—these at once passed over to the spot on which the pa Te Kuhikuhi was built, and begun to clear it, when the men in the one canoe saved, came back to Waitara; and they were allowed to cultivate by Teira's ancestors the portion cleared, and live on it for one season. This leads us on to another point in the history of King's claim to the land sold by Teira. As the portion above alluded to is in the portion sold, just before the Pukerangiora pa was besieged by the Waikatos, William King went to Kapiti and put himself under the protection of Rauparaha at Mana. This act, also, had a reason, as Rauparaha is descended from the Tainui migration, and as Wi Kingi was related to them he was safe; hence, therefore, on the intended attack on Pukerangiora word was sent to Wi Kingi to leave; he did so, and saved himself among his relations; but, after the purchase of the Taranaki district, including the Waitara, Wi Kingi returned to Waitara, and again lived on the North bank, near Manukorihi. But as some of the Waikato, under Rewi and others, were still cultivating in the vicinity (but only for the crops then in the ground), this was given as an excuse by Wi Kingi for asking Teira and Ihaia to be allowed to come over to the south side to the Kuhikuhi (those portions formerly cultivated by his ancestors on the mishap with the canoes of the Ngatiawa), as he was afraid of the Waikatos attacking him. The request was granted—he and his people have lived there ever since.

We will not enumerate any purchases of land made by Government, but confine ourselves to the purchases made by "Citizen." Apihai Kawau is the head Chief of the branch of the Ngatiwhatua tribe at Auckland. Under the penny-an-acre proclamation, "Citizen" may remember that he purchased a piece of land up the Waitemata river for a person named Chisholm, from Hauraki as minor Chief of the Ngatiwhatua, and that the consent of Te Kawau was not asked, nor did he sign the deed to Chisholm. Again, "Citizen" bought another piece of land for Brigham up the same river from Tautari, who is a minor Chief of the same tribe, when the consent of Te Kawau was not asked, nor was his name signed to the deed. Again "Citizen" bought a block of land up the same river for Henderson and McFarlane from Tuhaere and Keene, when the consent of Te Kawau was not asked, or his name to the deed. Again, "Citizen" bought a piece of land for Fulton, up the Waitemata, from Manihera, a returned slave from Ngapuhi, a minor Chief of the Ngatiwhatua at Kaipara, Nopera being the head Chief of this portion of the Ngatiwhatua, yet Nopera's name is not to the deed. Again, is not Te Kanae Chief of the Ngatitamaoho, and was not Epiha Putini a Chief who was brought up from a child by Te Kanae—yet "Citizen" bought a piece of land for Newman at Raratonga from Epiha, and the consent was not asked, nor was his name signed to the deed. We could multiply instances to fill a book, but these will suffice, and when these claims were brought before the Commissioner of Land Claims, not one of them, or a boundary, was disputed, notwithstanding "Citizen" in some instances gave new names to boundaries of the blocks he purchased for private individuals. If facts are proofs, then the above examples show that a minor Chief can sell his land to any one he likes without the senior Chief's consent.

The recognised head of the Ngapuhi is Tamati Waka Nene, of the parent stem, but there are many sub-tribes of Ngapuhi—no less than about forty-five. The original Chief in Mamari was called Nukutawhiti; and, when a very old man, his grandsons quarrelled about the division of land. To put an end to this, the old patriarch went with them to Ohaeawai, and there caused a ditch to be dug East and West; the West side of which was for one part of the family, and the East side for the other.

Referring to the *hapu* of the Ngapuhi tribe on the West side of the boundary line so laid off, we will see how far it is true that the head Chief was the only person who could alienate by sale. At the heads of Hokianga the Chief Moetara, of the Kaititae *hapu*, sold a piece of land to a Mr. Oakes, and also a piece to Captain Kent, also a piece to the Wesleyan Mission. The head Ngapuhi Chief at that time—Muriwai—was not asked, nor did he receive payment. Mr. Jellicoe bought a piece from the Ngatitoro; Mr. Manning also bought a piece from another sub-tribe, Te Hikutu; Captain Herd bought a piece from Muriwai; Mr. Poynton also bought a piece from Te Popoto; Mr. Fishwick bought a piece from Tengahengahe; Mr. McDonnell bought a piece from Te Ihutai; Mr. White bought a piece from Te Patupo; Mr. Russell bought a piece from Ngatihao; Mr. Cassidy bought a piece from Te Mahurehure; Mr. Pearson bought a piece from Ngatikaihoru; Mr. Wright bought a piece from Urikopura; but these will suffice, out of about 120 purchases.

It will be seen that out of these there are only two which were sold by the head Chief or his tribe; one to Captain Herd by Muriwai, and the second by his successor, Nene Waka, of the Ngatihao tribe, to Russell. These last two purchases were the only blocks over which as Chief Waka or Muriwai exercised control, or for which they got a portion of payment, as the evidence taken by Commissioners Godfrey and Richmond in 1843 will testify.

These purchases were made between the years 1824 and 1839, as they were some of the first purchases made by Europeans in New Zealand. If the law as given by Hoete, Taraia, and others is or was a law among the head Chiefs, how came it to be transgressed at a time when the head Chiefs revelled in all their Alexander Selkirk glory?—[*Taranaki Herald*, June, 1860.]

MISCELLANEOUS.

8—*Extract from letter from Rev. T. Buddle to Governor Gore Browne, November, 1860.*

Respecting the claims of the Waikato chiefs on the district of Waitara as described by Mr. Commissioner McLean in his evidence before the House of Representatives in August last, I have the honour to remark that I am not acquainted with all the facts stated by Mr. McLean, but I can certify that the Waikato chiefs always affirmed that they had claims on that District in virtue of having conquered the Ngatiawa and driven them away; and that their claims were universally admitted. I also know that a large party of the Waikato people belonging to the Ngatimaniapoto tribe, under Niotone Te Pakaru, went to Waitara several years ago and cleared a large piece of land there for cultivation in order to exercise their rights.

Rev. T. Buddle,  
Nov., 1860.

I have enquired of Rev. J. Whiteley of New Plymouth respecting the claims of Waikato chiefs on the Waitara District, and of any acts of ownership exercised by them over that land. Mr. Whiteley replies, "I am decidedly of opinion that Archdeacon Hadfield is wrong, and that Mr. McLean is right. Certainly the Ngatimaniapoto came to Waitara, and had a *kainga* and cultivations there."

[*Not before published.*]

9. *Letter from Rev. J. A. Wilson, Church of England Missionary, to Governor Gore Browne, November, 1860.*

I ought to mention that during a recent visit of nearly two months amongst the tribes on the Waikato, it was not unfrequently asserted in the presence of the Rev. Mr. Morgan and myself, that the chief cause of the present war arose out of the "King Movement"; and that the disturbed state of the country is owing to the course still pursued by the supporters of the King party. In confirmation of these observations I think it unnecessary to mention more than three distinct testimonies.

Rev. J. A. Wilson,  
Nov., 1860.

First. When at Whangaroa in September last, I went through the whole of the war question with the Chief of that place, Wiremu Nera Te Awaiaia, and in conclusion he observed to me: "You must understand this, the war is not a struggle of the Maori and the pakeha, it is not a war with the Missionary, it is not a war with the Magistrate, but it is a war of the King [Native King] with the Queen." This he afterwards repeated, and added "The flag [King's flag] is the cause."

Secondly. Subsequently, at Otawhao, I went through the subject again with a Chief named Te Waru, who is probably inferior to none in that part of the Waikato. During this conversation he observed: "Friend, all this fighting and plundering would not have occurred had we not made a King. This is the root of the strife. It is Waikato who fight the cause of Taranaki. The men of the soil keep at a distance, they are but slaves: we fight their battles; we are the strength of this war." This Chief has always behaved with kindness to the settlers and loyalty to the Government; and I believe sincerely desires the peace of the country.

Lastly. I shall mention the evidence of Te Wetini, the leader of Ngatihaua, who fell on the 6th of this month at Taranaki, and who was really a manly and patriotic native. This Chief admitted freely and openly that the war was not merely a contention for the land at New Plymouth, but for the chieftainship (rangatiratanga) of New Zealand. He said that "wherever the King's flag went they (the war party) would follow: That if the Governor sent troops to *any* part of this island they would meet them." It gives me much pleasure to state that this Chief regretted the ferocity which had hitherto marked the war, and did what he could to influence his countrymen to a more humane course of action. His last words to myself were, "In the event of my tribe following the example of Waikato and killing the wounded and prisoners, I shall leave them and return to Matamata."

I have forwarded the observations of these Chiefs to your Excellency, because it has been asserted that the King movement has nothing to do with the war at Taranaki and is in fact wholly distinct from it. [*Not before published.*]

10. *Extracts from Address by Mr. Busby, formerly British Resident at New Zealand, to the Native Chiefs, June, 1860.*

OLD MEN AND FATHERS OF THE MAORI NATION:

Listen to the words of an old man and father, whose children and grandchildren are natives of the same land as your children and grandchildren. Many of your children, perhaps, never heard of the name of Te Puhipi, the man who was first sent by the King of England to reside in their country; but to you my name was familiar before they were born.

Mr. Busby's Address,  
June, 1860.

Then was signed the Treaty of Waitangi, the covenant between the Queen and her Maori people, by which the Natives of New Zealand became subjects of the Queen, and the Queen became the protector of the Maori race. The shadow of the Land went to the Queen, the substance of it remained to the Maori race. The Queen promised to protect each man and every man, so that every

## MISCELLANEOUS.

Mr. Busby's Address,  
June, 1860.

man's land should be his own; and the Maories agreed that when they wished to sell the land they should sell it only to the Queen; because when Queen Victoria became Queen of New Zealand it was not lawful for any of her people to buy land, but only for those whom she appointed. The Treaty was carried over the Is'and, and all the principal chiefs entered into the covenant. But some one will perhaps say to me, "I did not sign the Treaty, I am not bound by it." Friend, tell me this—Can one stone stop the flow of the river? Can one man stand against a thousand? If he does not turn, and go with the rush of the army, will he not be trodden under foot by it?

Two ulcers have broken out—one at Taranaki, one at Waikato. Teira has sold his land to the Queen: Wiremu Kingi says "The land shall not go to the Queen; the land is Teira's, let Teira keep his land; I will not suffer it to be sold, because though the land is Teira's the power is mine; I am Waitara, let Teira live under my shadow." Friends, this is a great mistake of Wiremu Kingi's. In former times, before the Queen's shadow covered the land, when a strong man armed kept his palace, his goods were in peace; but when a stronger than he came he was overcome, and his goods taken from him. This was Maori custom. In those days Wiremu Kingi, being stronger, could overcome Teira; but when the Queen promised to every Maori that he should be as one of her own people, the law came: the law is the strength of the weak man, and the law says, "Every man's land is his own, to sell to the Queen or keep; no one shall take it from him because he is weak; no one shall prevent his selling it if he wishes to sell it." If the Governor allowed Wiremu Kingi to overcome Teira, he would make the Queen false to the promise she made to every Maori man when she entered into the Treaty.

\* \* I write it because these are troublous times, and I foresee that evil will come upon you, if you do not turn from your folly. I have read all your speeches at Waikato; the flagstaff is a challenge to the Queen: I think if the King of France had set up a flagstaff under the shadow of the Queen, the Queen would not have forborne so long; no, 500 ships of war would have been upon the seas, and numerous soldiers upon the land. Why has she dealt so with you? Because you are but children in knowledge; She has treated you as children. But friends, these ulcers must be healed. Will not the Queen ask what is the cause for so much money being spent, to pay so many ships of war and so many soldiers? and what will be the answer? There are two causes: Teira was living under the shadow of the Queen, but Wiremu Kingi said to Teira—"You shall not live under the shadow of the Queen, but under my shadow." This is the first. The second is like it. The people of Waikato have made a king for themselves, though Potatau said, "Do not make me a king, I do not know how to be a King." They have raised a flag for a token, and they want to live under the shadow of this flag, and not under the shadow of the Queen's flag. Then the Queen will say, "Was it for this that I spared the land of the Maories and treated them as children, securing to each man his own land? Is it just that I should take the money from my people in England to send ships and soldiers to New Zealand? let those pay for the ships and soldiers who would not allow my Maori people to live under my shadow." Then it will be said, "Then they have no money, but have they not land?" The Queen was willing to pay them money for the land, but they would not take her money and live in peace: and now the money that would have been paid for their land has been spent upon soldiers and ships of war. If the Queen were to say, "Take the land," who would say it was unjust?

Therefore I counsel you, as an old friend, to cast away your folly, and let the land be in peace.

From your old friend,

TE PUHIPI (James Busby).

[In *Southern Cross*, July, 1860.]

11. *Extract from Letter of Mr. Busby (British Resident) to Governor of New South Wales, 16th June, 1837.*

Mr. Busby's Letter,  
16 June, 1837.

To those unacquainted with the status of a New Zealand Chief it may appear improbable that he would give up his own proper rank and authority. But in truth the New Zealand Chief has neither rank nor authority but what every person above the condition of a slave, and indeed the most of them, may despise or resist with impunity.

[In *Parl. Pap.* 7th Feb. 1838, p 9.]

12.—*Extracts from the Governor's Speech to the Natives at Taranaki in March, 1859.*

Governor's Speech  
at Taranaki,  
March, 1859.

The Governor wished them to understand that the Queen regards equally all her subjects; that all her Governors have had and would have the same instructions, viz.:—to do their utmost to promote the welfare of her subjects without distinction of race. The missionaries had imparted to them the blessings of Christianity and translated the Bible for their use. It was not in the power of man to confer any other gift which would bear comparison with that of the Bible; but, out of regard for the Natives His Excellency had caused an abstract of English law to be translated into Maori. He had no wish to enforce this law; on the contrary, it would only be put in force in those districts where the people are wise enough to desire it, and prepared to carry it into effect themselves. Some tribes in the North had already desired to have English law: and a Magistrate had been appointed to instruct them how to put it into practice. They were now engaged in doing so, with every prospect of becoming a peaceful and prosperous people, and uniting themselves with the Pakeha. This tribe is the Ngapuhi. The Governor had but two subjects on which he desired to speak, particularly, to the

tribes living near Taranaki, and they were—First, in reference to criminal offences ; second, in reference to land. He wished these subjects to be considered separately, and as having no sort of reference to each other. The tribes in the vicinity of Taranaki have greater advantages than most others, as they are much intermixed with the Pakeha, and ought to profit by their intercourse with them. If they choose to live peaceably and cultivate their lands they would grow rich and multiply, instead of which they were constantly at war with each other, and their numbers were decreasing. Their disputes were almost always about matters of little or no importance, or about land which was not worth quarrelling for. Had the Governor been in New Zealand when Katatore slew Rawiri, he would have had him arrested and brought before the Judge, and, if the Judge had sentenced him to be hanged, he would have caused him to be hanged ; that he had not thought proper to arrest Ihaia, because though the murders to which he was a party, were horrible and disgraceful, yet they admitted of some extenuation, inasmuch as they were committed in retribution for the murder of Rawiri. All this, however, now belongs to the past ; but, for the future, he had determined that every man (whether he be Maori or Pakeha) who may commit any violence or outrage within the European boundaries shall be arrested and taken before the Judge, and the sentence of the Judge, whatever it may be, shall be carried into effect. He was determined that the peace of the settlers should no longer be disturbed by evil doers, and that those Maories who are not content to live in peace among the Pakehas had better go elsewhere. In reference to the second subject, the Governor thought the Maories would be wise to sell the land they cannot use themselves, as it would make what they could use more valuable than the whole ; but that he never would consent to buy land without an undisputed title. He would not permit any one to interfere in the sale of land unless he owned part of it ; and, on the other hand, he would buy no man's land without his consent.—[*Official Statement, 20th March, 1860.*]

MISCELLANEOUS.  
Governor's Speech,  
March, 1859.

13.—*The Governor's Manifesto to the Natives in February, 1860.*

[*Translation.*]

1. When the Pakehas first came to Taranaki there were no Natives at the Waitara. The Ngatiawa had been dispossessed by the Waikato. *Governor's Manifesto, February, 1860.*
2. The Waikato transferred their rights to the Government and received a payment for the land.
3. Afterwards the Ngatiawa returned and occupied the land : the Government acquiesced in this occupation.
4. In March 1859 some of these occupants, Te Teira and others, openly offered to sell to the Government their claims to a portion of the land at the Waitara.
5. William King opposed this offer, and said that no land at the Waitara should be sold. But the "mana" of the land was not with William King, and he had no right to forbid the sale of any land which did not belong to him personally.
6. The Queen has said that all the natives shall be free to sell their lands to Her, or to keep them, as they may think best. None may compel the Maori people to sell their lands, nor may any forbid their doing so.
7. William King sets his word above the Queen's, and says, though the rightful owners of the land may wish to sell, he will not allow them to do so.
8. The Governor cannot allow William King's word to set aside the words of the Queen.
9. The Governor has said that he will not allow land to be bought, the title to which is disputed. He has also said that he will not allow interference with the rightful owners in the sale of their lands. When land is offered, the title to which is clear, the Governor will use his own discretion in accepting or declining the offer.
10. The Governor accepted Te Teira's offer conditionally on its being shewn that he had an indisputable title.
11. Te Teira's title has been carefully investigated and found to be good. It is not disputed by any one. The Governor cannot therefore allow William King to interfere with Te Teira in the sale of his own land.
12. Payment for the land has been received by Te Teira. It now belongs to the Queen.
13. William King has interfered to prevent the survey of the Queen's land by Her own surveyors. This interference will not be permitted.
14. The Governor has given his word to Te Teira and he will not go back from it. The land has been bought and must be surveyed. The Queen's soldiers will protect the surveyors. If William King interferes again and mischief follow, the evil will be of his own seeking.
15. The Governor desires peace. It depends upon William King whether there shall be peace or not. If he ceases to interfere with what is not his own he will be treated as a friend and there will be peace.—[*Maori Messenger, February, 1860.*]

XIV.—*Extract from Letter of Archdeacon Hadfield, to the Duke of Newcastle dated 29th May 1860.*

An official document put forth by the Governor, entitled "Statement relative to the purchase by the British Government of Teira's land at Waitara, Taranaki," contains, I presume, all that can be advanced in justification of his own proceedings. It is fortunate that the merits of the question

*Archdeacon Hadfield's Letter.*  
29 May, 1860.



## MISCELLANEOUS.

Archdeacon Hadfield's  
Letter, 29 May, 1860.

lie within very narrow limits. The right of Natives to their lands is not now a subject of dispute. The Governor says: "The Queen has said that all the natives shall be free to sell their lands to Her, or to keep them, as they may think best." The question at issue is simply this—Is a native chief to be forcibly ejected from his land, because an individual member of his tribe tells a subordinate land agent that it is his and not the chief's, and that agent believes him? The Governor says, Yes; the chiefs say, No. We have resigned our sovereignty to Her Majesty the Queen, and in return for that Her Majesty has guaranteed to us the protection of the law. We claim to have disputed titles to land which it is desired to purchase, decided in some competent court on evidence given upon oath, for we have never consented, and will never submit, to have the titles to the land on which we live, and on which we cultivate the food for our subsistence, decided by a mere subordinate land agent, interested in acquiring land, and resting his decision on the bare assertion of a man of no note or rank in the tribe. This is really the question at issue between the Governor and Wiremu Kingi. Were Teira's title as good as I am certain it is bad, and had Wiremu Kingi no valid title whatever, still the real question raised by this act of the Governor's is what I have now stated it to be. Are chiefs to be debarred from all right to defend their titles in a competent court of law? Is the *ipse dixit* of an interested subordinate land agent to deprive a chief of his land, and justifying the Governor in having recourse to arms? If so, of what conceivable use or meaning is the guarantee in reference to their land contained in the Treaty of Waitangi? \* \* \*

I now proceed to consider the grounds publicly set forth by the Governor in defence of his extraordinary act at Taranaki, in forcibly ejecting Wiremu Kingi and his tribe from a block of land situated on the South side of the Waitara, consisting of about six hundred acres, on the bare assertion of a district land Commissioner, that it belonged to another person, who had sold it to the Government. It is stated that the land belonged to Teira and a few other persons, who were the real owners and who have sold it to the Government;—that Teira's title to the land was 'carefully investigated, and found to be good;—that Wiremu Kingi and those who acted with him had no title to it;—that "Wiremu Kingi never pretended to deny Teira's right of property, but insisted on his own right to put a veto on all sales at Waitara." I deny the truth of all the statements. I am prepared to prove their falsity here, where evidence can be obtained; but I must, under the present circumstances, in the absence of documents, endeavour to do so by the use of such arguments as can be appreciated at a distance. I must, however, make a few preliminary remarks. The ownership of the land ought to have presented but few difficulties to the land Commissioner. It was not wild land, land which the tribe who occupied it had conquered from other tribes. On the contrary, it was land which had been owned by the tribe for many generations, and had been subdivided into small allotments among upwards of fifty occupants, with boundaries accurately defined by stone posts, which had existed for ages. I should perhaps say that all the claimants belong to one tribe—Ngatiawa. Some years before the establishment of the British Government in New Zealand, a large portion of the tribe migrated to the southward, to Cook's Strait, for the purpose of being near whalers, and obtaining English goods. William King was one of this party. Subsequently Waikato attacked that portion of the tribe which remained at Waitara, and defeated them. But they never held possession of the land, and consequently never acquired any title to it. William King, it will be observed, was never conquered or driven from his land. Before New Zealand became a British colony, he informed me of his intention to reoccupy it. The statement, therefore (page 4), that "Ngatiawa had been dispossessed by Waikato," as being at variance with fact, is highly offensive to the natives; and it certainly is not very easy to ascertain the purpose for which it has been advanced, as the present dispute is not between Ngatiawa and Waikato, but between members of the former tribe only. \* \* \*

But with regard to Teira's right to sell, which is so positively asserted, and on the supposed validity of which a war has been commenced at Taranaki, can I expect to be believed in England when I assert, as I do unequivocally, that Teira's father Tamati Raru, through whom alone the son could lay claim to any land as inherited by him from his ancestors, is still living, and opposed its alienation? Teira's father is indeed the owner of a small portion of the block; but it would be irrelevant to the purpose of my present argument to discuss his right to sell, inasmuch as he refused to do so, and co-operated with William King in opposing his own son up to the very commencement of hostilities. I feel that nothing I could add to this fact would tend to strengthen the assertion I make, that the claim set up on behalf of Teira to alienate the whole block of land is altogether untenable.

But perhaps the most extraordinary statement made is, that William King "never denied Teira's right of property." The document goes further and says (page 4, c. 11): "It is not disputed by any one." I have already cited the Governor's own admission that William King positively told him that "Waitara was in his hands," and that he would not part with it. I am unable to conceive in what manner the old Chief could more distinctly deny his opponents' title. It is true Mr. Parris, the District Commissioner says that, in answer to his question—"Does the land belong to Teira and his party?" he replied—"Yes; the land is theirs, but I will not let them sell it." I am credibly informed that the Chief did not intend to convey the meaning here attributed to him; that what he said was, that Teira and his party were part owners of the land, but that did not justify them in selling the whole. I can easily conceive how such a mistake would arise, as it is quite in accordance with the idiom of the *Maori* language to begin an objection by "Yes," *i.e.*, "you are right to a certain extent, but, &c." And that was exactly the Chief's meaning; Teira has a right to a small part; but he wishes to avail himself of that to establish a claim to the whole block of land now under discussion, and that I will not allow him to do. Here the irregularity of the whole proceeding



MISCELLANEOUS.

*Archdeacon Hadfield's  
Letter, 29 May, 1860.*

appears; for had such a question been put in a court of law, and the alleged answer been returned, William King's counsel would have taken care that no inference prejudicial to his interests should be drawn from it. \* \* \*

It is further said (p. 4), that "Teira's title has been carefully investigated and found to be good." I deny that any investigation whatever deserving of that designation, has ever taken place. The whole transaction has been left in the hands of Mr. Parris, the local land Commissioner, whose business is to purchase land, and who by the very nature of his office, is disqualified in the estimation of the Natives, impartially to investigate claims to land. The Chief Commissioner did not investigate the claim. He told me after the war had commenced that he had only made a preliminary inquiry early in 1859. What is demanded by the Natives is, an impartial Court in which their respective claims can be stated; and before which they may bring evidence to be received on oath. Nothing short of an inquiry conducted on such principles as these can be considered an "investigation" of their titles to land. But the absurdity of the procedure, not only in this particular case, but in all the so-called investigations of Natives' titles to land, appears in the fact, that up to the present time no principles have been laid down as to what constitutes a title to land; and each Commissioner is left to the unfettered use of his own discretion to decide on this delicate subject. The consequence is that these Commissioners, many of whom are not qualified by previous education and habits of thought to deal independently with a question of so much difficulty, very frequently, as might be expected, act on very different principles, and arrive at various conclusions. Such being the anomalous position in which this most important subject has been hitherto left, it is useless for the Governor to say, "that if any man could prove his claim," such claim would be respected. How prove a claim, when as yet no principle is acknowledged by which its validity can be tested, and no recognized tribunal exists before which it can be brought? Probably a District Commissioner holding less narrow views than those held by Mr. Parris, would have acknowledged William King's claim, and the Colony would have been spared an unjust and unnecessary war. \* \* \*

The document proceeds:—"As to the possession, the facts of the case are, that when King returned to Taranaki from Waikanae in 1848, being in fear of an invasion of the Waikatos from the north, he asked permission of Tamati Raru, Teira's father, to build a pa upon the piece of land on the south bank of Waitara, now sold to the British Government. Permission was granted, and King's pa was erected on the south bank, his cultivations being on the north bank. King's followers have, however, encroached with their cultivations upon the south side of the river; and these encroachments have been, for a long time, a source of continual dissension." It is true that King did ask Raru's permission to build a pah on a piece of land belonging to him. But what, let me ask, is the impression the passage just cited is intended to convey? Assuredly a very false one. The only possible construction to be put on these words is, that William King and his "followers"—as his tribe seems to be designated—having no land of their own on the south side of the river, took advantage of a concession made to them for their personal security to encroach on property to which they had no right. But I have before asserted that they were the owners of by far the largest portion of this land, which they had inherited from their ancestors, and which is subdivided and accurately marked with stone posts. What, then, is the one particle of truth on which this false statement is built? It is simply this, that King consulted his friend Raru as to whether the pah, in which, for their mutual security, they all, belonging to one tribe, were about to reside, should stand a few chains nearer to the water side than it would have stood had it been erected on his own land on the same side of the river. I can only characterize this statement as disgraceful to an official document, whether the error arose from ignorance or wilful misrepresentation. \* \* \*

It is further added that "a large section of W. King's tribe residing at Queen Charlotte's Sound, including Ropoama Te Ore and his followers, affirm the right of Teira's party." The Governor must feel his case very weak to have recourse to such an argument as this. Why does he go to the Middle Island to seek for owners of the land, when there are a hundred of these actually in possession? Why does he overlook those members of the tribe residing at Wellington and Waikanae, who all support King's claims? Why, moreover, does he seek for an accurate and unbiassed opinion from a personal enemy of King's, who expelled his brother from Waitohi? It would be difficult to suggest any other answer to these questions than that he has begun to doubt the validity of Teira's title. But when the fact itself on which the assertion is made, that these persons "affirm the right of Teira's party" is examined, it appears that the Commissioner derived his information from Ropoama, who used their names not only without their consent, but actually in the face of their positive assertion that King and his party were the real owners. \* \* \*

I think it has now been shown that a gross act of injustice has been committed by Colonel Browne; that he has acted illegally in employing troops to eject a Native Chief from land which he occupied, the validity of his title having never been disproved, and no breach of the peace having been committed. Perhaps, my Lord Duke, I ought to stop here, having only ventured to address your Grace for the purpose of calling attention to a flagrant act of injustice. I have hitherto felt my ground secure: I have been dealing with facts within my knowledge; I can in so clear a case distinguish between justice and injustice. But in the remarks I am about to make I lay myself open to the charge of presumption. Still I feel bound to express my opinion that the Governor's attack on William King was not only impolitic, but under the present circumstances of the Colony, an act of folly closely bordering on insanity. That he acted without the least foresight, or the remotest suspicion that he was about to rouse the whole Native population to an expression of indignation, and many to take up arms, appears very evident. He no sooner began hostilities, than he found the means at his disposal wholly inadequate to the task he had undertaken. He then sent to the neighbouring colonies for

## MISCELLANEOUS

Archdeacon Hadfield's Letter, 29 May, 1860. more troops; gave orders for calling out the militia; returned to provide for the defence of Auckland; postponed the meeting of the General Assembly; and issued circulars to various Native Chiefs, as well as men of lower rank throughout the Colony, inviting them to assemble at Auckland, and consult with him about the state of the country. Am I wrong in assuming that all these acts plainly indicate his entire ignorance of the nature of the step he was taking when he began hostilities this autumn at Taranaki? But this ignorance admits of no excuse, because there are men in the Colony who did from the first actually predict some of the worst consequences of his rashness, and who still foresee much that will necessarily follow.

[In "*Wellington Spectator*," Nov. 1860.]

xv.—*Extracts from Evidence of ARCHDEACON HADFIELD at the Bar of the House of Representatives, August, 1860.*

Archdeacon Hadfield's Evidence, at the Bar, August 1860.

Do you know the position of the block of land in dispute at Waitara?—The only difficulty I have in answering that question arises from my never having seen the official survey boundaries. It has been described as a block of land containing about 600 acres situated on the south bank of the Waitara; this land I have seen and been over; but I do not know the precise boundary line of the Government. It is three years since I was on the land.

Can you state who were the owners of that block of land previous to the present dispute?—I will state what I have heard on the subject. I have direct information from persons stating that they are claimants to that land, and I am only giving my opinion on that information. I have no hesitation in saying that the land belongs to that portion of the Ngatiawa tribe, of which William King is the chief. This portion of Ngatiawa is divided into four *hapus*, namely—Ngatikura, Ngatiuenuku, Ngatihinga, and Ngatitusho, who have principally resided at Waitara, since 1848 under William King. With regard to the block of 600 acres (apart from the tribal right as represented by William King,) I have been informed (speaking within the mark,) that there are a hundred claimants who assert rights to that land, it having been the land of their ancestors, and having been in ages past, in some parts at least, defined by stone marks. I know the names of a number of claimants. I could quote a great number. I am prepared to prove that there are a hundred persons now at living Waikanae, Port Nicholson, Queen Charlotte's Sound, and Massacre Bay, having valid claims.

On what authority do you state that there are 90 claimants on the Block at Waitara and only 10 or 11 claimants consenting?—What I have now stated on this subject rests on the assertion of others. I am here as an unwilling witness in the case before the House, unprovided with direct proof. I am but a secondary witness. I have founded my convictions upon statements made to me by the Natives themselves—but I do not know what is considered conclusive to the Committee. I am unable to state to the Committee all the grounds on which I have formed opinions. I do not know whether I fully understood the question.

Is William King one of the ninety?—I have before stated that the right of the tribe extends over the whole of that block, therefore he is one of the claimants.

Has William King ever made a proprietary claim?—I hear that he made a proprietary claim to a portion of the block. It would be impossible for me to say what it is, as I understood that the boundaries of the block are undefined. I have heard that about sixty acres, on the south bank, had been left out as belonging to William King. It is utterly impossible for me to state, without the boundaries being defined, what portion of his claim is within the block and what without it. His son has a claim within the block.

What proof have you that Hamere Ngaia has a claim on the block?—I before stated that I am unable to produce all the evidence which I have had, but I may state to the Committee that an old man, who resided at Waitara forty years, pointed out to me, when I was at Waikanae, portions of the land which belonged to William King. Several other Natives confirmed that statement.

Are you aware whether any act of ownership was ever exercised by the Waikato upon the block?—Certainly none that I acknowledge to be an act of ownership.

Do you know of any Waikato Native, except Peketahi, who lived at Waitara?—I do not know that any other lived there, in such a sense as to establish a title.

Are you acquainted with the details of negotiations for land in the New Plymouth district since the disallowance of Spain's Award?—I have read the documents laid on the table of the House, and have heard a good deal, but, living 200 miles from the spot, I could not say that I was acquainted with the details.

Of whom was the Bell Block bought?—Principally, I believe, from returned slaves from Waikato, so I have been informed.

Of whom was the Hua Block bought?—I do not know.

Of whom was the Tarurutangi bought?—I do not know.

To what *hapus* of the Ngatiawa do Riwai Te Ahu, Hohepa, and the Waikanae claimants belong?—Riwai belongs to Ngatikura and Ngatihinga; the other claimants belong to the same *hapu*.

Did William King receive any payment for Mangati or Bell Block?—I don't know whether he did or not.

You say King is the head of four *hapus*,—where is the Territorial boundary of these four *hapus*?—I am not acquainted with the boundaries of the land owned by those four *hapus*, of which William King is

the head. I have only been for a few days at Taranaki of late. I have never professed to be acquainted with the boundaries.

You say that there are four *hapus* under King—have they equal right to the south bank of Waitara?—I think they have.

What are the grounds of your opinion?—I ground it on the evidence of living witnesses.

Is your opinion derived from conversations subsequent to the present dispute?—I have it on the authority of those persons with whom I have conversed on the subject, and who have objected to the sale of land at Waitara.

Prior to the present dispute have you ever had conversations relative to the respective rights of the four *hapus* to the South Bank?—I have previously stated that I believe in the fact of the tribal right of Wm. King—having stated as much distinctly—it is a question in which I take no interest, as I think it irrelevant. I have had conversation on the subject, and I do not believe that any separate rights exist between Ngatihinga and Ngatituahou on the one side and Ngatikura and Ngatienuku on the other: the various *hapus* through former intermarriages are so mixed up with one another that it would be impossible to distinguish among them. It is impossible to give either an affirmation or a negative to a question which you can neither believe nor disbelieve. The question is perfectly unintelligible and irrelevant.

Has King or any of the Ngatikura ever cultivated on the disputed block?—I am not aware that they have cultivated any part of that land since their return—but his tribe have in former times cultivated there. When I was at Waitara his cultivations were almost exclusively on the North Bank.

Can you say if any of those cultivations were within the disputed Block?—I do not know from personal knowledge.

Where was Reretawhangawhanga's Pa before the migration?—I do not know; he principally lived at Manukorihi; I am not certain that his Pa was there.

Was there a pa on the disputed Block before the migration?—I do not know.

Have you ever heard that King asked permission of Raru to build a Pa on the South Bank, and do you believe that he did so?—I have heard so. I believe I know the reason why he asked permission. On their return from Waikanae they were all rather anxious that they might be on the safe side of the river, as they dreaded that the Waikato would return. This fear was more particularly expressed by Tamati Raru, who thought that William King might as well occupy their side of the river. The reason of his making it a request was not on account of his having land there—for there was within a few chains the land of his brother-in-law—but he desired to build the Pa a few chains nearer the river than it would have been on that land.

Do you know whether William King had any opportunity offered him of stating his claim to the Government Officers, or to the Governor himself, before the Military force was brought into action?—I presume he had innumerable opportunities, he might have written by every post. He had an opportunity of meeting the Governor after the publication of Martial Law. (After further conversation between Mr. Sewell and the witness, witness said) I must then confess myself unable to understand the question.

On what authority do you state that there was no investigation of the Absentee Claims?—I am quite certain that none was made at Waikanae. It must be generally understood that my evidence in reference to this dispute is derived chiefly from the Chief Hohepa Ngapaki and Riwai Te Ahu; I have had information from others, but I limit myself to these two.

[In Sess. Pap. Gen. Assembly, 1860, E No. 4]

XVI.—Copy of Letter from the Chief Land Purchase Commissioner to the Governor, dated 1st December, 1860.

SIR,—

With reference to the Venerable Archdeacon Hadfield's letter of the 12th October last, addressed to the *New Zealand Spectator*, I have the honor to offer the following observations for your Excellency's information.

Letter of D. McLean,  
Esq., to Governor,  
1 December, 1860.

In the second paragraph of that letter, while commenting on the Hon. Mr. Tancred's speech in the Legislative Council, the Archdeacon states:—"The only point of Maori law in reference to tenure of land, in which I gave evidence was, that an individual member of a tribe had no right to alienate any portions of the territory of the tribe; and I proved that I held this opinion 15 years ago. Mr. McLean's evidence on this point, contained in the official Report on Native Title to land, which was published in 1856, is identical with that given by me: Mr. McLean, it appears, now gives a different opinion on this subject; but in doing so he contradicts himself as well as me."

I am at a loss to know to what the Venerable gentleman refers, as I have not in the least changed my opinion since 1856, on the subject of Maori tenure to land; nor have I, in any way, recognized the right of an individual Maori to alienate land which was held in common by his tribe, or by subdivisions thereof.

The Archdeacon's remarks would lead to the inference that a block of six hundred acres at the Waitara has been ceded to the Government by one individual: while he ought to be aware that the cession was the act, in the first instance, of two important *hapus* or sections—representing the Ngatituahou and the Ngatihinga tribes, as well as a branch of the Puketapu, whose claims were intermixed with those of the two former tribes and rested exclusively on the Southern extremity of the block in question: and, moreover, that subsequently it was confirmed and ratified by a large number of absentee proprietors residing in Queen Charlotte's Sound and elsewhere.

## MISCELLANEOUS.

It is not my intention to follow the Venerable gentleman throughout the many unfounded assertions which he has chosen to make in reference to Mr. Tancred's speech. I need only remark that his own admissions prove that he had no personal knowledge of the locality on which his evidence treated, and that his information was derived from parties who never could have known anything of the tribal rights to the land; inasmuch as the Rev. Riwai Te Ahu and Hohepa Ngapaki—his two principal informants—must have been mere children when they left the Waitara district.

The Archdeacon's reference to my evidence having been impugned by the Rev. Samuel Williams, might convey an impression that the statements of the latter are based upon reliable facts.

I may, however, observe that Mr. Williams has been only once into the Waitara district, and cannot therefore be regarded as an authority on the subject of land claims in that locality. Whilst there, he failed in an attempt which he made to obtain from the Natives a piece of land for a Church and School. I should not have mentioned this circumstance, but that I consider it a significant fact when viewed in connexion with the opinions entertained by him in this matter. Whilst I am ready to bear my testimony to Mr. Williams' zeal as a Missionary, I cannot help at the same time expressing my regret that he has of late manifested a sympathy with those Natives who are disaffected to the Government, rather than with those who have openly and consistently avowed their loyalty.

To return to the Archdeacon's letter, I shall quote the questions cited by him, with my replies thereto and his comments thereon, and shall remark on them *seriatim*.

1. "‘Had the Ngatituaho and Ngatihinga a right to the disputed block, independently of the *hapus* of the Ngatiawa?—Yes, decidedly.’ ‘Why then were the Government, according to their own confession, obliged to exclude sixty acres of the block belonging to William King, the Chief of the Ngatiawa, whose land they at first stated was all on the north bank of the river, and besides leave the inland boundary unsurveyed, lest they should discover that he and those who acted with him had more land still within the block?’"

The Government, as will be seen by reference to the deed of sale—never intended to take any land except as from the real owners, and with their full and free consent. This was so rigidly observed that a clause was appended at the time to the effect that all Natives having claims to land within the block in question, should, subsequently to the cession, be at liberty to prefer them, and that if such claims were satisfactorily established they would be recognised and satisfied. So carefully indeed did the Government adhere to this rule, that in defining the boundaries of the block negotiated for, several portions of land, supposed to belong to the selling party, were excluded from the purchase, to avoid the possibility of compromising in any degree the conflicting interests of rival claimants.

2. "‘Do the sellers, including Ropoama and his people, at Queen Charlotte's Sound, properly represent these two *hapus*?—They do.’ ‘Now, is this possible when Te Patukakariki is the Chief of these *hapu* as stated by Rev. Riwai te Ahu in his letter, and which it is really dishonest in Mr. McLean to deny, if he knows anything about the matter. Ropoama's only title to rank as a Chief, a very second rate one in any case, is derived from Pawau, his mother, Te Patukakariki's sister or cousin, Koi, Teira's uncle, being a *tutua*. Is Mr. McLean's reply the result of ignorance, or is it misrepresentation?’"

The Archdeacon in these observations takes it for granted that Te Patukakariki is the exclusive Chief of these *hapus*, because his Assistant, the Rev. Riwai te Ahu, tells him so. Probably the Archdeacon forgets that Te Patukakariki is much more distantly connected with these two *hapus* than Ropoama, or Tamati Raru, or any other of those who took an active part in the sale. Your Excellency will observe that the Archdeacon takes, apparently, a pleasure in representing those who aided the sale as men of inferior rank and station, while in those who opposed it he discovers claims to rank, to integrity, and in short, to a high order of virtues.

3. "‘After the enquiry you have made, do you know of any outstanding claim?’—‘I have referred to one man who may have a claim, that is Patukakariki, though I do not know that he has.’ ‘Is this answer precise, definite, distinct? Will any but Mr. Tancred say it is so?’"

If the answer to this question is not "precise, definite, distinct," I have only to say that it was in accordance with the views of the Government (and, indeed, with my own) that no one should be debarred from preferring a claim, even though it were morally certain that no such claim ever existed. Te Patukakariki, or any other Natives may, even now, prefer a claim to the land in question.

4. "‘Do you believe that any considerable claims can be outstanding?’—‘I do not.’ ‘Is this ignorance, or what is it? Is it not beyond dispute that there are claimants at Otaki, Waikanae, Wellington, Queen Charlotte's Sound, besides those actually in arms against the Government because their claims have been disregarded?’ I have not any reason to change my opinion on this subject. I am not aware of any claims except those which the Archdeacon has been assiduously creating, and which, as far as I can judge, are not entitled to more consideration than the mythical, and consequently untenable, claims of *mana* asserted by him on behalf of William King.

5. "‘As to Te Patukakariki, did he oppose Teira's offer?’—‘No, he never did.’ ‘It has been positively asserted by Tipene Ngarama that Patukakariki opposed Teira's offer in March, 1859. How then did Mr. McLean make a statement directly at variance with a known fact? Was it through ignorance? Is this a gross blunder, or what is it?’"

6. "‘Has he ever made a claim?’—‘He never, to my knowledge, made a claim to that particular block.’ Is this a confession of ignorance, or is it precise, definite, distinct, unmistakeable?’—‘I have already shewn that Te Patukakariki did assert a claim to the disputed block in March, 1859.’"

With reference to the two foregoing clauses, I would state that I was present at Taranaki, in March, 1859, when the land was offered for sale. Te Patukakariki never made the slightest

objection to the sale of this land, although he did object to the cession of some claims inland of this block, which were offered by a Native named Piripi. MISCELLANEOUS.

On the remaining portions of the Archdeacon's letter, conveying personal animadversions on myself, I shall refrain from making any comment. I may simply say, however, that I do not consider myself responsible for any construction which the Archdeacon may choose to put upon my statements; and that I cannot help regretting that he should have thought it worthy of himself, and fair to me, to indulge in these aspersions.

And now I shall briefly advert to some observations which appear in Archdeacon Hadfield's evidence before the House of Representatives in its last Session. (Ans. to Q. 44.) "I was absent from the Colony about 12 months, and on my return I found that the [King] Movement had made rapid strides in the South. The progress of the King Movement is to be attributed, in my opinion, to the action of the Land Purchase Department in the South part of this Island." In making an assertion of this description the Venerable Archdeacon should have had the candour to avow that the "anti-land selling league"—which eventually merged into the King party—was really a project of his own, and was recommended by him to the Natives as early as the years 1848 and 1849. The Natives have openly stated at their Meetings, on the subject of land selling, that *they had been instructed by the Archdeacon not to alienate any portion of their territory to the Government*. Mr. Hadfield seems to find it very convenient to conceal the part which he took in influencing the minds of the Natives, and very adroitly to endeavour to impute to the Land Purchase Department the blame due to his own acts. I apprehend it would require a measure of more than the Archdeacon's ingenuity—great as it may be—to defend his efforts to embarrass the Government in their operations with the Natives, and by his advice and counsel to lead these on to their own destruction.

I consider it quite unnecessary to trouble your Excellency with a more general refutation of Mr. Hadfield's statements; for he has already admitted that his information was derived from the Rev. Riwai Te Ahu and Hohepa Ngapaki, both of whom, as I before observed, were of very immature age at the time of their tribal migration from the district to which their evidence has reference.

I have, &c.,

DONALD McLEAN,  
Chief Land Purchase Commissioner.

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# A P P E N D I X

## TO THE GOVERNOR'S DISPATCH OF 4TH DECEMBER, 1860.

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## APPENDIX A.

# NATIVE TENURE.

EXTRACTS FROM OPINIONS OF VARIOUS AUTHORITIES :—

### I. D. McLEAN, *Chief Commissioner for the Purchase of Native Lands.*

THE Governor was most anxious that some means should be devised by the Chiefs of the Conference to define tribal boundaries, and make such a sub-division of property among tribes, families, and individuals, as would secure to them their landed rights, on a more certain foundation than now existed. The Chiefs present were all aware that land was the main source of many of their difficulties; occasioning loss of life, and affecting the property of both races. No fixed law on the subject could be said to exist, except the "Law of Might." It was true, various customs relating to Native Tenure existed, but these were not in any way permanent; and the endless complications of such customs were eventually resolved into the law of might. Paora, one of the Ngatiwhatua Chiefs present, had stated that one law did not exist with the Europeans and Natives about land. This was true, inasmuch as the Native has no fixed law to regulate the rights of property. How, therefore, could it be expected that one law should prevail? The European has a law to guide him on this subject; the Native has no well-defined law. The Governor had long thought of this subject, and availed himself of the present Conference of Chiefs to place his own views before them, in the hope that they would co-operate with him to devise such a measure as would simplify Native tenure, and enable them to leave the land they inherit in the quiet and undisturbed possession of their children. Scarcely a year passed without our hearing of war about land in some part of New Zealand. At Tauranga the Natives had been fighting very lately: also at Whakatane, Tunapahore, Upper Wanganui, Hawkes' Bay, Ngapuhi, Te Ihutaroa, and now at Taranaki. It was asserted by some that these wars had been occasioned by Government land purchases. This was untrue. The Government used every endeavour to prevent quarrels in conducting the purchase of land; and at those districts throughout New Zealand where no land had been purchased, such as Te Ihutaroa and other places with which the Government did not interfere, bloody feuds were carried on between the different tribes from time to time. Powerful tribes took possession of land by driving off or exterminating the original inhabitants. Those in their turn drove off other less powerful tribes. The conqueror enjoyed the property while he had the power of keeping it. None were certain how long they could occupy the land in peace. It was true that Christianity introduced a different state of things. By its influences the conquered were permitted to re-establish themselves on the lands of their ancestors. In process of time, however, the conquered encroached too far on the formerly recognised rights of the conqueror, occasioning up to the present day much bitterness of feeling between the two classes of claimants. Tribes vary in their customs about land, but after all, their various customs are liable to be superseded by the Law of Might. He would not detain them longer, but wished them to consider this Message well before they expressed an opinion on it.—[*Speech at the Conference of Native Chiefs, July, 1860: in Maori Messenger.*]

D. McLean, Esq.

You will remember being examined in writing by a Commission issued by his Excellency in 1856: one question put to you was, "Has a Native a strictly individual right to any particular portion of land, independent of the tribal right over it." I find among the answers in the negative "McLean," Is that you, and was that your report on the question?—I am the Mr. McLean, and that is the reply which I made.

What do you mean by Tribal right?—I suppose it means the right of a Tribe.

Will you describe the meaning of Tribal right in regard to the transfer of land?—It varies so much in different parts of the country, I should wish to know what particular part of the country you refer to—as the custom which prevails in one place does not in another.

What is the general rule?—There are very wide exceptions.

Is the rule or exception wider?—The exception is the wider.

When a *hapu* alienates, who represents it, and is the consent of all its members necessary?—In some tribes the different *hapus* must be consulted, in others the chiefs; much depends upon the personal character of the latter. I did not say that *hapus* or subdivisions of tribes had not a right of transfer of property. The various *hapus* or families which compose a tribe most frequently have the right of disposal, but not always: the custom varies.

How do you discover what the rights of the parties are?—You must discover them by inquiry of the people in the district where the land is situated, and elsewhere.

If Patukakariki is the head of the Ngatihinga, could an individual sell without his consent?—A certain number of claimants could sell, but not invariably without his consent.

What proportion, a bare majority?—I cannot say. It would depend on the locality, the people, and the boundaries.

Then the sum of your evidence is this: That there are no settled rules or principles guiding alienation of land, and that in such matters the exception is wider than the rule?—The Natives have no fixed rule. The custom varies in different districts.—[*Evidence at the Bar of the House of Representatives, August, 1860, Sess. Paper E No. 4.*]

## NATIVE TENURE.

*Bishop of New Zealand.*

## II. BISHOP OF NEW ZEALAND.

The Native Land Title is simple enough in its origin ; but, from obvious causes, extremely complicated in its actual state.

In its theory, it is this :—A few leading Chiefs, with a small body of children and retainers, arrive at different parts of the Island, and make a rough partition of the territory among themselves by natural boundaries of mountains and rivers. These families grow into tribes, each possessing the patrimony derived from its ancestors. To preserve this inheritance unimpaired was a primary object of their care. To this end two restrictions were necessary.

1. Upon the right of alienation ; and 2, upon the liberty of marriage. The case of the daughters of Zelophehad is strictly analogous to Maori usage.

“If they be married to any of the sons of the other tribes of the children of Israel, then shall their inheritance be taken from the inheritance of our fathers, and shall be put to the inheritance of the tribe whereunto they are received. Let them marry whom they think best, only to the tribe of the family of their father shall they marry.”

Other reasons may be assigned for these restrictions, such as—

The right of the tribe to require service from all its members.

The necessity of keeping up their own numbers.

And of preventing strangers from acquiring landed property, to be used to the injury of the tribe.

There is reason to think that an independent right to alienate land, without the consent of the tribe, is unknown in New Zealand.

On the other hand, in the ample territory which each tribe at first possessed, there was probably much freedom of choice in the particular spot which each member might wish to cultivate. This spot became his own by right of occupation, and in the absence of all forms of conveyance descended to all his children and grand-children, sons-in-law, and daughters-in-law, till the right which was at first personal, became complicated by a multitude of claims. In the neighbourhood of fortified places these plots of ground, from the necessity of the case, were as minute as cottage gardens near a populous town ; and it may be taken for granted as a general rule, that in such cases every acre of land will contain ten or twenty plots, and for every plot there will be ten or twenty claimants, as I have repeatedly found. In such cases also, for the sake of mutual protection, the right of the tribe to control the alienation of land to foreigners would be most rigidly enforced.

Three points then seem to be clear on this subject :—

1. That there was originally a distinct owner for every habitable spot in the Northern Island.

2. That these claims have become complicated by the obvious causes of inheritance and marriage, without forms of conveyance or bequest.

3. That these rights of ownership, whether in one or many joint proprietors, were not alienable without the consent of the tribe.—[*Memorandum to the Governor, May 1860, in Sess. Papers, E No. 1.*]

III. SIR WILLIAM MARTIN, *late Chief Justice of New Zealand.**Sir W. Martin.*

So far as yet appears, the whole surface of these Islands, or as much of it as is of any value to man, has been appropriated by the Natives, and (with the exception of the part which they have sold) is held by them as property. No where was any piece of land discovered or heard of [by the Commissioners] which was not owned by some person or set of persons. \* \* \* There might be several conflicting claimants of the same land; but however the Natives might be divided amongst themselves as to the validity of any one of the several claims, still no man doubted that there was in every case a right of property subsisting in *some one* of the claimants. In this Northern Island at least, it may now be regarded as absolutely certain, that (with the exception of lands already purchased from the Natives) there is not an acre of land available for purposes of colonization but has an owner amongst the Natives according to their own customs. \* \* \*

For the most part, the boundaries of property are well defined. In the immediate neighbourhood of such Pas as are at present inhabited, land is often minutely subdivided; each separate piece belonging to some one person, who cultivates either alone or jointly with some member of his family. The same is the case in the neighbourhood of old pas, even though they may have been abandoned for many years. The titles of the former cultivations are remembered and maintained by their descendants.

Where the acts of appropriation, in some past generation, were of a less public nature, or took place a long time ago, the titles of the present claimants are of course much more difficult of proof. Out of cases of this kind the greater part of the existing disputes have arisen. Each of the claimants endeavours to prove some act of ownership exercised without opposition by one of his ancestors. Acts commonly alleged are—cultivating, building a house or catching rats on the land, setting an eel-weir, cutting down a *totara* tree in the forest for a canoe, &c.

These claims in the ordinary course of things become sufficiently complicated; but are rendered much more so by the introduction of another set of claims which arise out of rights of conquest, enforced in very different degrees in different cases. Boundaries between different pieces of property have been often indicated by the Natives incidentally, without any question put or any previous reference to the subject, in spots now remote from any habitation of man: for example, on the edge of the forest between the Whanganui river and Tongariro; on the highest peak of the Aroha; at a stream in the heart of the wood between Tauranga and Rotorua.

But between territories of different tribes, there are often found tracts of land which are called *kāinga tautoke* or (literally) debateable lands. NATIVE TENURE.

The lands of a tribe do not form one unbroken district, over which all members of the tribe may wander. On the contrary, they are divided into a number of districts appertaining to the several sub-tribes. Each sub-tribe consists of the descendants of a common ancestor (whose name it generally bears) who was, in former times, the conqueror or in any other way the recognised owner of the district. These smaller districts are, in many cases, numerous; and for the most part are sufficiently well defined.

Sir W. Martin.

Within each of them, the families or members of the sub-tribe are free to range, both to take the natural products of the soil, and to cultivate for themselves such portion of it as they may choose. There is no paramount or controlling power, either in the tribe or in the sub-tribe to restrain or to direct the exercise of this right of appropriation. Each family or freeman may use and appropriate, without leave of any. It is indeed a rude form of property, a natural stage in the progress towards the more complete appropriation of the earth's surface in the way familiar to ourselves. But still, 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.

Mr. Spain says, in describing the Port Nicholson district: "There are seven divisions or families of a tribe, each claiming separate lands of their own, and certain rights and privileges, which are sometimes wholly denied, and at others only partially admitted by the rest." Again, speaking of the same district; "In a place so thickly populated as I have before described this to be, the boundaries of the parts of the district belonging to each tribe or family are generally pretty well ascertained and admitted between them. As a proof of this, I may mention that in the case of Native Reserves great difficulty has been found in getting Natives belonging to one family to go on a reserve made within the boundary of the land belonging to another family, although it has been fully explained to them that the reserves are made for the benefit of the Natives generally, and not for any particular tribe or family. They cannot understand this; and in several instances that have fallen under my notice, they have positively refused to cultivate a Native reserve so situated, although at the time in actual want of a spot to grow their potatoes upon."

\* \* \* The New Zealanders have been in the constant habit of resisting even to blood any encroachment upon their territorial rights. They are not less disposed to resist now. For their determination on this point there are two reasons:

1. That these rights (whatever names our lawyers may give them) are of great value to the Natives, as has been shown. They, like other men, are naturally disposed to retain, by force if necessary, that which they know to be a benefit to themselves.

2. That every tribe sees, in any successful encroachment upon its territory, a peril to its own independence and even to its existence as a distinct tribe. An extreme jealousy on this point appears to be the natural result of their condition, and may with truth be described as the "passion" of this people. This has been a main cause of desolating wars. There is a common proverb, *he wahine, he oneone, i ngaro ai te tangata* (women and land are the destroyers of man). The pride of each tribe centers in its power to maintain its own possessions against aggression. This spirit in the Native people is closely akin to one which, if we were speaking of ourselves, we should describe as patriotism.

\* \* In New Zealand the claims to land are numerous; the claimants often live far apart from each other; and the people are especially slow and deliberative in settling the terms of a bargain. To make a good bargain there are needed length of time, publicity, and knowledge of the Native language. When these requisites are found, purchases of land in New Zealand may be, and in a large number of cases have been, made as safely at least as in England.—[Pamphlet of 1846.]

#### IV. ARCHDEACON MAUNSELL.

The land does not, generally speaking, belong to one individual, but chiefly to the tribe. Often there will be only one main proprietor or *take* [root] as they denominate him; but if he be not a Chief of rank, the head man will take upon him to dispose of the spot. Often, and more frequently, there will be many *take*, and one of them will sell without consulting the others. There are other difficult points connected with this question—*e.g.*, a tribe will give a spot of land to another, either as a marriage portion or to induce them to reside, &c. The former are still *take*, but the latter may, if they like, sell, only they generally hand over the payment to the former, reserving to themselves the honour attendant on the transfer. The latter, again, if they be powerful, will sell without consulting the former; all being regulated by the relative power of the two parties. At the same time, I consider, that to a valid document both parties' names should be attached. Neither is it a difficult matter to satisfy the others when the main *take* (if he be a man of rank) has given his consent.—Letter from Rev. R. Maunsell, quoted in Evidence before the House of Commons, 1840; Parl. Papers, August 3, 1840. Archdeacon Maunsell

V. BOARD OF INQUIRY :—Major Nugent, late Native Secretary; Mr. Ligar, late Surveyor-General; Mr. Daldy; and Mr. T. H. Smith, Assistant Native Secretary.

Board of Enquiry,  
in 1856.

It appears that the title or claim to land by Tribes arose from occupation, dating some times from remote periods, and from more recent conquests, followed by occupation either by themselves personally or by remnants of the conquered people.

That this title existed no longer than it could be defended from other tribes.

## NATIVE TENURE.

Board of Enquiry  
1856.

That the boundaries were in some cases clearly defined and admitted by adjoining tribes, but that in many others they were quite the reverse, and were causes of constant quarrels.

That narrow belts of land, as being claimed by two tribes, could not have been occupied by either without causing an appeal to arms. That there is no part of the country which is not claimed by some party or another.

That as land is inherited in the female line, the constant inter-marriages between the tribes led to the descendants by such marriages having claims to land in more tribes than one.

That it frequently happened that one tribe gave land within their own limits to the members of another tribe for assistance rendered in times of danger, which gifts were held most sacred.

That claims to land were made by one tribe and admitted by another as compensation for the murder of a Chief thereon or other injury.

That an accidental death of a Chief on the land of another tribe gave his family a claim to it.

It will therefore be seen that no tribe has, in all instances, a well-defined boundary to its land, as against adjoining tribes, and that the members of several other tribes are likely to have claims within its limits.

Each Native has a right, in common with the whole tribe, over the disposal of the land of the tribe, and has an individual right to such portions as he or his parents may have regularly used for cultivations, for dwellings, for gathering edible berries, for snaring birds and rats, or as pig runs.

This individual claim does not amount to a right of disposal to Europeans as a general rule, but instances have occurred in the Ngatiwhatua tribe in the vicinity of Auckland, where Natives have sold land to Europeans under the Waiver of Crown's right of Pre-emption, and since that time to the Government itself. In all of which cases, no after claims have been raised by other members of the tribe, but, this being a matter of arrangement and mutual concession of the members of the tribe, called forth by the peculiar circumstances of the case, does not apply to other tribes not yet brought under its influence.

Generally there is no such thing as an individual claim, clear and independent of the tribal right.

The Chiefs exercise an influence in the disposal of the land, but have only an individual claim like the rest of the people to particular portions.

Since the introduction of Christianity the Natives have gradually emancipated their slaves taken in war, and by their return to their former possessions, they have become a new class of claimants.

When the Natives first came into contact with Europeans, in the relative position of sellers and buyers of land, the evidence of which before the Board extends as far back as the year 1822, it has been shown that the Natives in disposing of their land intended only to convey a title similar to that which they, as individuals, hold themselves. The right of occupancy. They did not imagine that any thing else could be wanted. Their desire for Europeans to settle among them was very great, and in selling a piece of land to one of these early adventurers, they not only were prepared to hold his title, such as it was, inviolate, but considered his personal safety a matter of the deepest interest. He in fact was considered as one of the tribe among whom he had cast his lot.

They soon, however, ascertained, when a knowledge of their language had been sufficiently required by the Europeans, that this sort of Tenure was unsatisfactory, and in all subsequent transactions of the kind gave written titles in perpetuity, with the right of Transfer,—[*Report to Governor Gore Browne, in Sess. Papers, 1856.*]

VI. REV. J. HAMLIN, *Church of England Missionary.*

Rev. J. Hamlin.

It would be difficult at this distant period to state precisely what gave the first Maori emigrants to this country a title to land on their landing on its shores. The following, however, appear the most reasonable, and are in accordance with what the Natives themselves affirm to be the fact.

(Here instances follow of occupation, &c.)

Occupation gave a title to land in those early times, but occupation alone, without some other claim, subsequently did not. Mere occupation does not give a valid title. In cases of occupation without claim, the occupant generally made some acknowledgment to the owner, in food or some other way, answering to our leases and rentals; but he had no right to sell.

Conquest alienates the land, but it has its quibbles. Conquest and occupation give a valid title to land. Conquest without occupation is doubtful. If the conquered party return, occupy and hold the land from which they were driven, the land is theirs. Hence the Tamaki land still remained in possession of the Thames Natives, though driven from it by Hongi; but they did not consider their occupation of it safe, and therefore sold it. If the conquered people return to their land by permission of the conqueror, the land does not become theirs unless a transfer of the land is made to them by the conquerors. But all these acknowledged Native Rights were by Might often set aside, and arbitrary power ruled.

"*Mana.*" The term mana in reference to land I have occasionally heard, and have asked the question, "*He aha te mana o te whenua?*" and have received this answer—"Aua hoki, ma te pakeha." 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. In the few instances in which I have heard it used, its meaning is synonymous with *tikanga*, which expresses ownership, or delegated authority by the owner to sell, to manage the business, or to be the spokesman, as we employ an auctioneer or solicitor.

In the Bay of Islands, where land purchases were first made, the Native of every degree of rank sold his land without reference to any other authority. It sometimes happens that the Natives will advise that the signature of a person of rank be added to a deed, who has little or no claim to the land purchased; but this, I think, is done with a view to conciliate the person, knowing that such persons can, and often do create disturbances if their names are left out, as they would consider they had been slighted. As a closing remark, I may say that 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, or 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*, it is a certain invisible, indescribable something to which the Pakeha 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.

It may be observed that scarcely any of the land of the aborigines of this country can be said to be the exclusive property of one individual; though the descent through which the party can trace their claim to the land they hold is by a single person. This person can sell if he likes without the consent of his party; the party selling without his consent would be a *hoko tahae*. This absence of the individualization of property seems rather attributable to the state of the country than to any defect in the line of descent. Circumstanced as the Natives have been, they say one individual cannot hold his land against the attacks of enemies; therefore, for security, peace, and safety, it was necessary to give all the branches of a family a participation in the possession, though the individualization of the descent is clearly recognized.

Tribal Rights, or any uniform course of action, or general plan for their guidance in the management of their lands, or other affairs, I have not found to exist amongst the Natives of this country; nor do I believe they have any such plan or general rule. Each party or tribe seems to have been guided by existing circumstances in the management of their affairs.—[*Paper on Native Tenure, not before published.*]

NATIVE TENURE.

Rev. J. Hamlin.

VII.—MR. SPAIN, formerly H.M. Commissioner for determining Titles to Land in New Zealand. Commissioner Spain.

Although a tribe might have marched through a country, conquering all the Natives and occupying the ground over which they passed, yet if they failed to retain the lands so conquered in their possession, and allowed the former owners still to occupy it, or to return immediately afterwards, and cultivate it without interruption for a period of years, in that case the consent of the conquerors to a sale to the Europeans, without that of such resident Natives, could not be admitted by me as a valid purchase. And I know of no rule laid down as binding upon or generally adopted by the nations of Europe, in colonizing a new country peopled by aboriginal inhabitants, which would justify the taking of land from the actual occupiers and cultivators of the soil, without their consent. On the contrary, I had the honour to quote, in my last despatch, the very opposite doctrine, as laid down by De Vattel. \* \* \*

I have set it down as a principle in sales of land in this country by the aborigines, that the rights of the actual occupants must be acknowledged and extinguished before any title can be fairly maintained upon the strength of mere satisfaction of the claims of self-styled conquerors, who do not reside on nor cultivate the soil. In short, that possession confers upon the Natives of one tribe the only and real title to land as against any of their own countrymen; and that the residents, whether they be the original unsubdued proprietors, the conquerors who have retained their possession acquired in war, or captives who have been permitted to reoccupy their land on sufferance: in all cases the residents, and they alone, have the power of alienating any land. \* \* \*

It appears to me that those Ngatiawa who, having left [Taranaki] 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. \* \* \*

The question, then, which your Excellency has raised, turns upon whether slaves taken in war, and Natives driven away, and prevented by fear of their conquerors from returning, forfeit their claims to land owned by them previously to such conquest.

And I most unhesitatingly affirm that all the information that I have been able to collect as to Native customs, throughout the length and breadth of this land, has led me to believe and declare the forfeiture of such right by aborigines so situated. In fact, I have always understood that this was a Native custom fully established and recognized; and I never recollect to have heard it questioned until your Excellency was pleased in the present instance to put forward a contrary doctrine.

Since that time I have made every further enquiry in my power amongst competent and disinterested persons, whose testimony has fully confirmed my original opinion.

## NATIVE TENURE.

Commissioner Spain.

I am fully of opinion that the admission of the right of slaves who had been absent for a long period of years, to return at any time, and claim their right to land that had belonged to them previously to their being taken prisoners of war, and which before their return, and when they were in slavery, had been sold by the conquerors and resident Natives to third parties, would establish a most dangerous doctrine, calculated to throw doubts upon almost every European title to land in this country, not even excepting some of the purchases made by the Crown; would constantly expose every title to be questioned by any returned slave who might assert a former right to the land, let the period be ever so remote; and would prove a source of endless litigation and disagreement between the two races, a result which must soon stop the progress of civilization amongst the Natives, so essential to their amelioration.—[*Reports to Governor Fitzroy: in Parl. Pap. 8th April 1846.*]

George Clarke, Esq.

## VIII.—MR. GEORGE CLARKE, formerly Chief Protector of Aborigines.

If, as is the general impression of all who have given their attention to this subject, the natives emigrated at different periods, we have at once a clue to the origin of titles.

Each migration landed, subdued, and laid claim to a certain district now claimed by their posterity. Each party would most probably acknowledge a leader, either nominated or assuming such character by virtue of superior prowess, who would actually be considered as the first Chief of the *iwi* or tribe. His children, with a portion of the *iwi* or tribe who might attach themselves to each particular child, may be considered as giving rise to the different *hapu*, or lesser tribes. His children and those who attached themselves to them formed separate *hapus*: who, although a part of the original family, would form a separate and distinct community: uniting, however, in times of war to repel the common enemy, but claiming and exercising independent interests in the soil in times of peace. \* \*

Bravery in war, and consequent power and rank as a Chief, will not determine the individual to be a great land owner. A man may be a great general and a small landowner; hence numberless mistakes have arisen among Europeans, who thought themselves especially safe in purchasing land from a powerful chief. \* \*

The Chiefs of every tribe or *hapu*, as well as the head of every family belonging to the tribe or *hapu*, have distinct claims and titles to land within their respective districts. At the same time it must be remembered that they have a joint interest in many of the lands.

The particular claims of the Chiefs, *hapu*, or families are to lands either subdued or brought into cultivation, or upon which they have exercised some acts of ownership: as lands where they have been accustomed to procure flax, or erect weirs for eels, or where they have built a substantial house. In such cases they claim a particular property: none but the person so claiming can give a title to the land, nor can he be dispossessed thereof. He may forfeit his right by killing, adultery, or migration to a different tribe and district. \* \*

In this way families hold and cultivate their ground, enlarging their individual cultivations from time to time, thus establishing an indisputable title to such lands as their special and particular property.

In other respects their title is more general: the *hapu* and families claiming in common with the principal Chiefs what may be termed their waste lands. But even here they must be able to substantiate some sort of title, such as having been the first discoverers, kindled ovens, built canoes, or exercised some other act of ownership which gives them the preference over such lands. The families have in common with the Chiefs the right of keeping pigs, gathering flax, snaring pigeons, catching rats, ducks, digging fern root, &c. Every individual of the tribe having these privileges in common, but still acknowledging the right of some particular family or individual member of a family to dispose of such property: that is, as president, head of the family, or Chief of the tribe or *hapu* to make the first proposal of alienation; yet they could not consider the purchase valid without the consent of the majority of the principal men of the tribe.

Lands that are thus possessed in common, involving the interests of so many claimants, are exceedingly difficult to purchase, and may be reckoned as among the most fruitful sources of their quarrels and disturbances. It frequently happens that two Natives, equally interested in the same lands, disagree on the question of its disposal. Numberless animosities originate from this source. \* \*

To obtain a specific title to lands held in common, there must be some additional circumstances to support the pretension; first discovery of trees—shooting pigeons—constructing eel weirs—digging fern root—making a road—receiving a wound—losing a friend—recovering from sickness—all or any of these acts give an undeniable right to special property in land heretofore considered common. \* \*

Conquest, unless followed by possession, gives no title. Were the Ngapuhis to claim the right of selling or exercising the sovereignty over the districts of the Thames, Kaipara, or Waikato in virtue of their former conquests, their pretensions would be treated as contemptible and absurd: and so distinctly is this principle recognised, that I have no doubt that any attempt to support and maintain the validity of titles derived from conquest only, would be met by a most determined resistance even if attempted by Her Majesty's Government. I have known slaves tenaciously maintaining their territorial rights while in a state of captivity: but I never knew a master to claim by virtue of his slave, or attempt to advance any pretensions founded on the capture of a landed proprietor. I have had large offers of land for sale by natives still in captivity, and have been warmly reproved by these men for doubting the validity of their title.

Great changes have taken place in the internal regulation and division of districts, and lands have completely changed owners: but in every case possession has followed immediately on conquest. The claim to Taranaki preferred by the Waikatos is good so far as they have taken possession: but they did not wholly succeed in driving the Natives out of that district; who maintained their independence by resorting to different paha on the coast. I should therefore consider the principal right to land in the Taranaki district still vested in the original inhabitants. Again, the titles of the tribes about Port Nicholson to land in the Taranaki district cannot be wholly extinct if they have kept up a friendly intercourse with the residents. Rauparaha, who conquered and took possession of parts of this country would, in connexion with his followers in the vicinity of Cook Strait, have large claims: but his title would no doubt be disputed by the original proprietors so soon as they were in a position to maintain their claims. A tribe never ceases to maintain their title to the lands of their fathers, nor could a purchase be considered complete and valid without the concurrence of the original proprietors. If a conqueror spares the lives of the conquered, and they thenceforth become amalgamated with his own tribe, he infallibly secures his own title by uniting the claims of the original possessors with his own.

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George Clarke, Esq.

Possession of land, even for a number of years, does not give a right to alienate such property to Europeans without the consent of the original donor of the land: but it may be continued in the possession of descendants of the grantee to the latest generation.—[*Report to Governor Fitzroy: in Parl. Pap. 29th July, 1844.*]

IX.—ARCHDEACON HADFIELD.

Archdeacon Hadfield.

Are you acquainted with the nature of the Native tenure of land?—I ought to express some diffidence in replying to that question, but I may observe (in reference to the tenure acknowledged by Natives of the southern half of this Island with which I am acquainted,) that there is little or no difficulty on the subject.

What opportunities have you had of becoming acquainted with the subject?—The opportunities I have had of becoming acquainted with the subject arose from the fact of my having resided for four years in a Maori Pah in which there were from five to six hundred men. My attention was particularly called to the subject at that time by the constant disputes about the purchases of land made by the New Zealand Company in Cook's Straits; I was frequently applied to by Mr. Commissioner Spain to assist him in elucidating Maori customs about land. I may further state that after the collision at Wairau I made it part of my business to inquire into the subject, and after careful inquiry I came, in 1845, to a conclusion on the subject, which the experience of the last fifteen years has not tended in the slightest degree to alter.

State what you think to be the rights of the tribe in respect to land belonging to it?—I think that the right of each tribe to lands extends over the whole of the tribal territory, and thereby precludes the right of any other tribes over it. Such absolute tribal right may be classed under two heads:—1st. The territory which has been in the possession of the tribe for several generations, and to which no other claim had been previously known:—2nd. The territory acquired by conquest, occupation, or possession.

State what you understand to be the rights of individual members of the tribes in respect to land?—I believe that the rights of the individual members of the tribes are limited to those portions of the lands of the tribe which they have either cultivated or occupied, or on which they have exercised some act of ownership which is acknowledged as such by the tribe. I must be understood to mean that their title to such lands was simply that of holding for their own use and benefit. Their right was a good holding title as against every other member of the tribe. They might exchange land among themselves, but no one could alienate without the consent of the tribe. In the year 1845 I drew up a paper on the tenure of Native lands, which I gave to Sir George Grey, who promised to return it. He told me he sent a copy of it to the Colonial Office. He did not return the original to me: I understand that it was burnt with other papers at Auckland.

What do you understand to be the rights of the Chief of the tribe in respect to land belonging to the tribe?—While looking over some papers a few weeks ago, I accidentally discovered my original pencil notes, which formed the rough draft of the paper on this subject to which I have just alluded; which I now produce, and with the permission of the Committee will read, as they must be conclusive as to what my opinion as to individual title was in 1845:—

"The Chief of the tribe, since he has no absolute right over the territory of the various *hapu*, nor over the lands of individual freemen of his own *hapu*, cannot sell any lands but his own, or those belonging to the tribe which are undoubtedly waste lands; nor can he do this in opposition to the opinion of the Chiefs of the *hapu* of the tribe, if they consider the territory, and thus the independence of the tribe, impaired by so doing. Allowing this very questionable right of the Chief to alienate any part of the territory of a tribe, it can scarcely be allowed to any Chief of a *hapu*, even should he act in accordance with the various individuals of the *hapu*. It must be remembered that a tribe, however subdivided into *hapu*, is one, and cannot allow its integrity and strength to be impaired by the independent act of one *hapu*, which it is bound to identify with itself in all things, and to protect, if involved in any quarrels or difficulties. These remarks are more decidedly applicable in the case of ordinary freemen—*tutua*, who cannot alienate that land which is absolutely their own for all practical purposes, but is not to be disposed of in a manner contrary to the supposed interest of the tribe. There can be no doubt on this subject."



**NATIVE TENURE.** —The notes which I have now read to the Committee imply that the Chiefs have power over some portions 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. I wish to guard myself, in reference to what I am saying on this subject, by premising that I am speaking of tenure to land as it existed prior to the establishment of the British Government in the Colony, and not since that event. The Chief of a tribe must be regarded as holding his position by a double title. His first title must arise from his undoubted descent through a long line of well known ancestors from the original head of the tribe. His second title depends on a more democratic principle, that is, he must be the acknowledged and the elected head of the tribe. The Chief is the representative of the territorial right of the tribe, not because he is descended from numerous ancestors of noble blood, but because he has been acknowledged as such on account of his personal qualifications and influence, and has in fact been recognised as the guardian as well as the mouth-piece of the rights of the tribe. I have no doubt whatever on this subject. I understand that whatever rights to land existed previous to the treaty of Waitangi among the Natives are still rights with them, being guaranteed by that treaty. I investigated Maori title to land irrespective of the influence which may have been exercised by the Government, and eight or ten years previous to the establishment of British sovereignty.—[*Evidence at the Bar of the House of Representatives, August 1860: in Sess. Pap. E—No. 4.*]

**X.—MR. SWAINSON, late Attorney-General of New Zealand.**

*W. Swainson, Esq.*

From time immemorial land has been the principal cause of quarrel among them; and with their independent spirit and sensitive jealousy as to their territorial rights, they soon began to regard with mistrust the introduction of British rule. Their territorial claims are not confined to the land they may have brought into cultivation; they claim and exercise ownership over the whole surface of the country; and there is no part of it, however lonely, of which they do not know the owners. Forests in the wildest part of the country have their claimants. Land apparently waste is highly valued by them. Forests are preserved for birds, swamps and streams for eel-weirs and fisheries. Trees, rocks, and stones are used to define the well-known boundaries. Land is held by them either by the whole tribe, or by some family of it, or sometimes by an individual member of a tribe. Over the uncultivated portions of territory held by a tribe in common, every individual member has the right of fishing and shooting. When any member of a tribe cultivates a portion of the common waste, he acquires an individual right to what he has subdued by his labour; and in case of a sale, he is recognized by the tribe as the sole proprietor. If undisposed of by sale, it generally descends from father to son. And even the power of disposing of land by will, orally expressed at the point of death, is recognised among them.

"A certain man had a male child born to him, then another male child, and then a third male child: he also had daughters. At last, being at the point of death, his sons and daughters and all his relations assembled to hear his last words, and to see him die. And the sons said to their father, 'Let thy mouth speak, oh father! that we may hear your will, for you have not long to live.' Then the old man turned towards his younger brothers, and spake thus: 'Hereafter, oh my brothers, be kind to my children. My cultivations are for my sons. Such or such a piece of land is for such or such a nephew. My eel-weirs, my potato gardens, my potatoes, my pigs, and my male and female slaves, are all for my sons only. My wives are for my younger brother.' Such is the disposition of a man's property. It relates only to the male children. The custom as to the female children is not to give them any land; for their father bears in mind that they will not abide on the land. They may marry husbands belonging to another tribe, not at all connected with their parents' family; therefore no portion of land is given to them. Not so the male children: they stand fast always on the land."

Such is the account given by an intelligent New Zealander, of the customs among them as to the disposal of landed property.—[*Swainson's New Zealand 1859: p. 150.*]

*James Busby, Esq.*

**XI.—MR. BUSBY, formerly British Resident at New Zealand.**

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 Maories.

The Rev. Mr. Hobbs lately showed that the words "Mana" and "Rangatira," which are the words in the Maori language supposed to represent the ideas of right and of authority, represent no such ideas in the minds of the Maories. In fact, the ideas must exist before words to represent them are called into existence.

I question whether many of the Maories 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 Maories had no law but the law of the strongest.

It is certain that the Maories had no fixed rule to guide them in the disposal of their land. It was a commodity to which no exchangeable value had even been attached—a transaction for which no



precedent existed; and, as in other things, the weak were overborne by the strong and impudent. Those who, according to our rules of lineal descent from the common progenitor ought to have had most to say in the matter, had often the least. This shocks our ideas of right, but it came as a matter of course to them.

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James Busby, Esq.

Nevertheless, there are ideas attached to the possession of land which may well be called instinctive. When a man has felled the forest, and fenced-in and cultivated a portion of land, he has established a right against all other persons, which is at once felt to be as natural as that of a man to his own children, and is precedent of all law; 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 Maories, than the exercise of an arbitrary power by those who have strength and arrogance enough to assume it.—[*Letter in Southern Cross Newspaper, July 1860.*]

XII. REV. MR. BUDDLE, Superintendent of the Wesleyan Mission.

Rev. Mr. Buddle.

“*Mana*” of the Chiefs. This word means authority, power, influence. It was originally applied to persons and their words or acts, not to land. A Chief whose authority or influence enabled him to gather together an army for war, was *he tangata whai mana* (a man possessing mana). Commands readily obeyed are a *kupu whai mana*—words having influence. A promise faithfully kept and duly performed was *mana*—*Kua mana te kupu a te Kawana*—the Governor’s word has been fulfilled. This word has of late been used in reference to land, and now we hear of the *Mana o te whenua* (the mana of the land)—what distinct idea is attached to it, is difficult to say. The disputed land at 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 is gone, the land is held as inalienable without the King’s consent. *Kia mau te mana o te whenua* is another expression now in frequent use, i.e., hold fast the mana of the land. 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 Island 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 this Maori King movement originated it.

It is by no means clear that any such custom as “manorial right” ever obtained among the Native tribes; was either 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. “*Na tenei*,” he would say, stretching out his arm, “by this I obtained it.” Or he claimed it in consequence of having cultivated it. What reason could exist originally for such rights? Land sales were things unknown. If land exchanged hands, it was not by sale, but by conquest—by Might disregarding Right. Apropos to this subject, a Waikato Chief who was adducing reasons for the King movement, remarked, “*Hoko tahae*” (dishonest sales of land) was one reason. A Chief offered land to Government, and because he was a Chief it was taken for granted the land was his own; “but,” he added, “you must not suppose that every Chief, because he is a great man with a great name, is a great land owner; there are many great Chiefs who have no land, and therefore have no right to sell.” How does this accord with manorial rights?

Take another fact. One man, at the great meeting at Ngaruawahia, drew a circle around him and said, “This is mine; let no man interfere with me. I am on my own land, and shall do what I like with my own.” Another asserted the same right, and declared his intention to sell what he pleased when he returned from the meeting. Did these men acknowledge the Chiefs’ manorial rights? Take another fact; Potatau himself sold a block of land to the Government a few years ago, and received a deposit of £50; but the sale has never been completed, because the men who had cultivated the block deny his right to sell, though he is principal Chief of the tribe, and refuse to allow him to do so. Manorial Rights are imaginary rights when claimed for New Zealand Chiefs.—[*Pamphlet, Origin of the King Movement, 1860.*]

XIII. MR. SHORTLAND, formerly Protector of Aborigines.

E. Shortland, Esq.

The spot where each canoe (of the migration) was finally drawn to land was taken possession of by the crew, who spread themselves from that centre over the more fertile districts till they became a numerous tribe. Each of the grand divisions under which the Natives of the Northern Island may be classed has its own characteristic dialect, and it seems probable that the term *waka* (canoe), which is also used to denote these primary divisions, has reference to that origin of the tribes. At the present day, these *wakas* are divided into many distinct *iwi*, each of which is subdivided again into *hapu* or smaller communities. The territory claimed by a *waka* is subdivided into districts, each of which is claimed by an *iwi*: these again are variously apportioned among the different *hapus* and families of chiefs.

In the immediate vicinity of a *pah* the land is more minutely subdivided between its inmates, nearly every person having his own small cultivation ground, or holding some spot in common with other members of his family. This circumstance renders it difficult to purchase lands once so occupied, even though the *pah* may have been deserted for many years: as every man whose ancestors cultivated there will expect his claim to be satisfied.

The Chiefs are the principal land holders. Every individual however (as far as I have been able to learn) has his own estate, which he has inherited from his branch of the family and which he cultivates as he pleases. The sons of a Chief may during his life time select *kaingas* or farms from their father’s estate: but the larger portions are cultivated in common by the different members of the

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family. On the death of the father the eldest son chooses some part of the lands for himself, the others do the same: the daughters obtaining only so much as their father or brothers choose to leave them. This order of things is sometimes changed in case the elder brother is of a quiet disposition and the younger brother happens to be a *toa*, or turbulent fellow.

A Chief, when speaking of the title by which he holds his lands, never fails to make a distinction between those which he has inherited and those which he or his ancestors have obtained by conquest; over the former his right is universally recognised, the latter appear to be tenable only so long as the party in possession are the most powerful. The claim which he advances is however quite characteristic, viz., that the lands are the *utu* or compensation for the death of his relations who perished in the fight. It is from purchasing lands the right to which is thus contested by two hostile parties, either of whom will gladly avail himself of an opportunity to sell independently of the other, that Europeans have unwarily fallen into so many difficulties.

Besides the lands thus held, there are large districts on the borders of different tribes which remain uncultivated. These *kainga tautohe* (debateable lands) are a never-failing cause of war till one party has lost its principal men. When a dispute arises between members of the same tribe, as to who is the rightful owner of a piece of land, the principal persons on both sides meet together to discuss the affair: their pedigrees are traced, and the ancestor from whom either party claims is declared; and proof that any act of ownership (such as cultivating, building a house, setting pit-falls for rats, or making eel-weirs) was once exercised without opposition by one of their ancestors, is considered sufficient evidence of the right of his descendants to the land. I have been present during such discussions, but have never known them terminated in an orderly manner, nor have since learnt that any advance has been made thereby towards settling the question.—[*Report to Chief Protector: in Parl. Pap. 29, July, 1844.*]

J. White, Esq.

#### XIV. MR. WHITE, *Interpreter in the Native Office.*

In order to be better understood, before speaking of the tenure, a glance may be given at the manner in which the migrations took possession of and portioned out their newly-discovered country. It is generally admitted among the Natives of New Zealand, that the Chief Kupe, who came in the canoe Matahourua, was the first. He took possession of the country from Whanganui to Patea. Turi, in the canoe Aotea, came next; he took from Patea to Aotea. Next were the canoes Te Arawa and Tainui; they took the land from East Cape to Cape Colville, where Tamatekapua, Chief of the Arawa canoe, died. The Chiefs Ruauru and Toroa came next in the canoe Mataua, and took Rotorua Lakes. The Tainui canoe, commanded by Hoturoa, came on from Cape Colville to Tamaki, and took all the country, east from Cape Colville to Mangawhai, west from Manukau to Whaingaroa. The Ngapuhi canoes were, next—Mamari, Riukakara, and Mahuhu. The first went to Hokianga river, and took the land from Maunganui to Ahipara. The Riukakara went to Whangaroa, and took the land from Mongonui to the Bay of Islands. Mahuhu (Ngatiwhatua) took the country from Mongonui, round the North Cape, to Ahipara. The Wakatuwhenua canoe came next and took Cape Rodney. The Chief Manaia, in the Tokomaru canoe, took Taranaki; the ancestor of the Ngatiawa came in this canoe. The canoe Kurahaupo, commanded by Ruatea, landed near East Cape, and took all the land from the point taken by Arawa, round the East Coast to Port Nicholson. The canoe Takitumu (or Horouta—fast sailer), commanded by Tata, first landed at Turanga, but proceeded southwards, crossed Cook's Strait, and took possession of the whole of the Middle Island.

Thus all the lands in the North and Middle Island were taken possession of on the arrival of the canoes. The boundaries claimed by this right of discovery did not long remain. Some time after the Arawa and Tainui migrations had settled, a Chief of the Tainui went overland to the Bay of Plenty and burnt the canoe Te Arawa. This was the cause of the first Maori war.

Most of the tribal boundaries lay along the highest ridges; and as these were the resort of the rat, every Chief became acquainted with the exact boundary of his lands. Where a creek was the dividing boundary, this was occupied with eel dams; not made of wickerwork, that might be carried away by a flood, but of such construction that generations might pass, and each put the eel baskets down by the carved and red-ochred *totara* post which its ancestors had placed there. Where the dividing boundary between two tribes ran along a valley, landmarks were erected, generally of cairns, to which names were given.

There is not an inch of land in the Islands which is not claimed, nor a hill, nor valley, stream, nor forest which has not a name. The boundary was liable to be altered, as when land was taken by conquest; or was given by a Chief for assistance rendered by another tribe in war; or when land given to the female branch of a family reverted to the male branch; or where land was ceded to a tribe for a specific purpose, and with certain restrictions, the tenure being conditional on the terms being fulfilled.

Hereditary tenure was thus:—The claim was grounded on the right of the grandfather or grandmother, not of the father, mother, brother, or other immediate kindred. There have been cases where a chief, on his death-bed, portioned out his land to each of his children. The sons' claim is, in all instances, derived from the grandfather. The eldest son, of the senior branch, in the male line, is Chief of the tribe, and exercises sole authority as guardian for his people against the encroachments of other tribes; but all the offspring, descendants from the male branch, have an equal right in the lands of their progenitors. No matter how distant the relationship, they all, so long as they can trace their origin up to the same ancestor (provided a family war has not occurred and thereby divided the tribe) claim an equal right to the lands owned by that ancestor. The title in the female line does not expand to the same extent; the granddaughter of a

Chief has an equal claim to the lands of her grandfather with that of her male cousins, and the claim continues good to her grandchild; but, on the death of that grandchild, the land reverts to the male line. This custom holds good for the following reason, which is assigned as its origin; namely, that were it not upheld, the intermarriage of Chiefs' daughters with members of other tribes would soon so complicate and curtail the tribal claims, that an invitation would be held out to adjoining tribes to attempt by conquest to despoil them of their territory.

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J. White, Esq.

If a family war takes place in which a tribe becomes divided (which has frequently occurred) a division of the tribal lands takes place. The lands of a tribe were portioned out according to the number of families of which it consisted; and were claimed by each family as its own; nor did any one meddle with it or occupy the land of another family unless by express permission. Still, those portions were not the exclusive property of each family. But this only applies to the lands originally settled by the first migrations, not to lands which have been acquired by conquest, gift, or *utu*, for curses or other injuries. Land is claimed by families, and the object of the Chiefs in pointing them out was to prevent tribal disputes and to allow each part of the tribe to have a portion of land over which it could exercise the exclusive right of cultivation, fishing, snaring birds, catching rats, or obtaining fern root. Moreover, this portioning out of the tribal lands caused emulation in the different families as to the produce gained by each for the use of the tribe. The individual claim to land, therefore, does not exist among the New-Zealanders, according to our acceptance of that term.

The right to land taken by conquest rests solely on the conquering party actually occupying the taken district, to the utter exclusion of its original owners or other tribes. If a portion of the conquered tribe escaped, the claim held good to as great an extent as they had courage to occupy; and if they could manage to keep within their own tribal boundary, and elude the enemy, their right to the whole of the land held good: hence the meaning of a sentence so often used by old Chiefs in their land disputes, "*I ka tonu taku ahi i runga i toku whenua*" (My fire has ever been kept alight upon my land). Again, if a tribe was conquered and became extinct with the exception of slaves taken by the conquerors, these slaves might by purchase recover their tribal lands, or they could if liberated return to them on condition of allegiance to the conquerors, rendering them assistance in war, and paying a tribute, for a time, of their produce. (Here follow numerous instances of other complicated claims). When land was given by one tribe to the leader of another tribe for assistance in war, it did not vest in that leader; the relatives of Chiefs killed in the war had a claim. It was also necessary that the land should be occupied and possession retained.

The war in the Bay of Plenty, which has been continued to the present time between certain Chiefs, also originated in a like cause (disputes of title). The contending parties are all of one tribe and spring from one ancestor, but by intermarriage some have a more direct claim than others; the descendants who by intermarriage are related to other tribes have made an equal claim to lands over which they have but a partial claim: and resistance to this has been the cause of the war. Disputes of this kind are not easily unravelled. I believe that were it possible to teach the Maories the English language, and then bring them into some Court, allowing each contending party to plead his cause in such a dispute as I have mentioned, not according to English law but Maori customs; both sides would, according to Native genealogy and laws, make out their respective cases so clearly that it would take a Judge and Jury possessed of more than human attainments to decide the ownership of the land.—[*Lecture at the Mechanics' Institute: written in August, 1859.*]

XV. Rev. J. A. WILSON, *Church Missionary.*

Rev. J. A. Wilson.

As much controversy has arisen since the commencement of the present war concerning the right by which land is held among the aborigines, I beg to offer a few remarks illustrated by facts, which at an early period in this country fell under my personal observation, when acting as an agent of the Church Missionary Society. I refer to the purchase of land in four different localities, in order to form Missionary establishments.

The Natives of New Zealand assert their claim to lands on the following grounds:

1st. Hereditary claims; which are the best.

2nd. Lands obtained by conquest.

3rd. Lands the Titles of which are disputed, or doubtful. These last claims are chiefly owing to marriage, and intermarriage with other tribes.

—These various claims are either *Individual* or *Tribal*.

It is not within my reach to refer to the exact dates attached to the transactions I shall notice, the original deeds being in the possession of the Government; yet I may mention, that the first of these purchases was made at the Thames, at a place named the Puriri; about 1835. I was myself one of a small band of Missionaries (four in number) who in the latter end of 1833 made the first attempt to christianize the Natives in this part of the Island; the Church Missionary Society having hitherto confined their efforts to the Bay of Islands and its neighbourhood.

The land on which the station at the Thames was formed, was obtained from a woman named "Tini." We found it was at her entire disposal either to retain, or to sell it at pleasure, and no Chief attempted to use the slightest control over her.

The payment, which at that period consisted chiefly of clothing and ironware, &c., was arranged by herself, assisted by others. Part she took for herself, the rest was distributed among the tribe to which she belonged, or sent as presents to other tribes.

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The Puriri having proved both unhealthy and inconvenient, about two years afterwards a second place was bought nearer to the sea. This also was sold by the same person. In this second purchase the following difficulty occurred, which will throw some light upon native usage, in the transfer of land amongst themselves. It was known that a Chief named Koinaki and his clan were living by sufferance on the place she wished to part with, and according to Native custom there was no right existing that could eject them. It was at the option of these people to remain there for generations, or even till the tribe became extinct. On the other hand, those in possession had no power over the land, either to alienate, or to dispose of it in any way. If they left it voluntarily, or were driven away in war, and the place lay desolate for any length of time; it was not in the power of the tribe who had left it to put any second party in possession, but it at once reverted to the hereditary heir. To get over the present embarrassment, Tini made presents to Koinaki and his people, in consideration of which they withdrew from the land.

The next instance I shall observe on was the purchase of land for a Missionary residence, &c., in the interior. In 1835 the Rev. Mr. Brown and myself formed a Missionary establishment at Matamata, and we were desirous to secure land for a village, &c. Our houses were built, and part of the ground cleared and fenced before we made any direct application to Waharoa, the Chief of *all* the Matamata tribes. This person had no compeer in the surrounding districts; and was feared by all, from the banks of the Waikato to the Lakes of Rotorua. As the Missionaries had been invited by this Chief to Matamata, and were now living under his protection, they supposed it merely necessary to apply to him, in order to be put in possession of the land they occupied. He told them however, that the land was *not his*, and that he *could not sell it*. But, he added, he had land of his own opposite the Pa (native fortification) and that they should have that.

This the Missionaries declined, for, though only a mile distant, yet as the pa might at any time be attacked and endanger the station, they preferred remaining on the site already chosen.

The old Chief, pressed by their importunity, consented at last to speak to the proprietor, Paringaringa, and shortly afterwards through him to the settlement. He was a young man, and owned land in the vicinity of Matamata. He readily agreed to sell the place, and having arranged the price, he afterwards returned with his mother and one or two others, who at once removed the property to their own dwelling *without making any distribution to others*. Waharoa, who was present, took two spades from amongst the different articles, more as an article of friendship than a right, and the purchase was concluded.

Other instances might be cited, but these appear sufficient to prove that, according to the primitive usages originally existing in this country, such a law as *positive personal right to land* was acknowledged.

But before quitting this subject, to noticing Tribal ownership, I shall take the liberty to insert a remark made by a Taranaki Native, who a short time since accompanied me down the Waikato. I had observed to him that a number of the people in a Tribe we had just passed, were saved from instant death through the interposition of two Europeans about twenty-five years since, but that they had forgotten their benefactors. My companion for some time pulled on in silence; at last he said, "The Maori does not forget an obligation of this kind any more than the Pakeha. The Europeans you speak of could not have been recognized, or they would not have been allowed to pass on without a welcome." Then in order to illustrate the gratitude of his countrymen, he continued:—"If, in former times, a rangatira (free-man, or gentleman) was dangerously wounded in battle, and was on the point of falling into the hands of the enemy; if, at such a moment, he was rescued by the valour of others, and who afterwards carried him to his home, his first thought after his recovery was, "What can I give to my friends? I have no riches, but I have land! I will give them land." And he acts accordingly.

The two next cases I shall refer to, relate to *Tribal Claims*.

The first purchase was made by the Missionaries at Tauranga, in the Bay of Plenty, during my residence among them. The land on which the station is situated was bought from the whole tribe of Ngaiterangi; the Chiefs receiving the payment before the people, which was by them divided according to the right of claim.

The last I shall speak of was at Opotiki, eighty miles to the eastward of Tauranga, and situated in the same Bay. This station was formed and conducted by myself alone for the first twelve years.

The land at Opotiki was tribal, and belonged to a number of small clans who were jealous of each other, and always at variance. As it was not easy to adjust and divide the property given in exchange to the satisfaction of a thousand such claimants, I gave the stipulated equivalent, which consisted of clothing, cattle, horses, ironware, and money, &c. (£300), to six or seven Chiefs, and they arranged the distribution.

Thus, though in widely different parts of this country, we find the observation of the same rights; and I believe it will be found, that the above precedents form the basis of the tenure by which lands are held amongst the Aborigines.—[*Letter to Governor Gore Browne, 1860.*]

## APPENDIX B.

# ACTS AND DECISIONS OF THE GOVERNORS OF NEW ZEALAND.

GOVERNORS' DECISIONS.

## I.—EXTRACT FROM A DESPATCH FROM GOVERNOR HOBSON TO THE SECRETARY OF STATE, 15TH DECEMBER, 1841.

I certainly admit that a people, who are in the highest degree jealous of their territorial rights, and amongst whom those rights are very imperfectly defined, are not unlikely to resort to force sooner or later, rather than suffer the occupation of lands, which may have been fairly bought from one tribe, but are claimed with great apparent justice by another.

I take, for instance, the Waikato tribe, under the Chief Te Wherowhero, who are extremely powerful. They conquered and drove away the Ngatiawas from Taranaki in 1834, leaving only a small remnant, who found refuge in the mountains of Cape Egmont; and having pretty well laid waste the country, and carried off a large number of slaves, they retired to their own district on the banks of the river Waikato.

It appears that in 1839 Colonel Wakefield visited the country, and bought a considerable portion of it from the few Ngatiawas who had resumed their habitations on the retreat of Te Wherowhero.

Now Te Wherowhero claims the country as his by right of conquest, and insists on it that the remnant of the Ngatiawas are slaves; that they only live at Taranaki by sufferance, and that they had no right whatsoever to sell the land without his consent. In illustration of his argument, he placed a heavy ruler on some light papers, saying, "Now so long as I choose to keep this weight here, the papers remain quiet, but if I remove it, the wind immediately blows them away; so it is with the people of Taranaki"; alluding to his power to drive them off.

Te Wherowhero certainly has a claim to the land, but not a primary one, as the received rule is, that those who occupy the land must first be satisfied. But he is the most powerful Chief in New Zealand, and I fear will not be governed by abstract rights, but will rather take the law into his own hands.

[*In Parl. Pap. 12th Aug., 1842, p. 188.*]

Governor Hobson,  
15 Dec. 1841.

## II.—EXTRACT FROM DEED OF SALE FROM TE WHEROWHERO TO HER MAJESTY, DATED 31ST JANUARY, 1842.

Know all men by this book: We, Chiefs of Waikato, do let go and sell these lands of ours to George Clarke, the Protector of Natives for H.M. Victoria, Queen of England, her heirs and successors, whether male or female, the land and all things that are on or under this land, we sell to George Clarke, the Protector of Natives, for an estate for the Queen, her heirs and successors, whether male or female, for ever.

The beginning of the Northern boundary is at Tongapourutu, the Western boundary is along the sea shore between Tongapourutu and Waitotara, and on the South beginning from Waitotara and going inland to Piraunui.

[*In Sess. Pap. Gen. Assembly, 1860.*]

Deed of Sale by Waikato.

## III.—EXTRACT FROM A LETTER FROM GOVERNOR HOBSON TO THE RESIDENT MAGISTRATE OF NEW PLYMOUTH, DATED KAWHIA, 25TH APRIL, 1842.

I write hastily, and am unprepared to enter into any details; but I cannot allow Mr. Whiteley to visit Taranaki without giving you the result of my communication with the Chiefs of this place relative to your settlement.

I find you have had a friendly visit from this branch of the Waikatos, who now express a wish to settle and cultivate in your neighbourhood; and I have purchased Te Wherowhero's claims, as well to your block of land as that which extends thirty miles to the north of what Colonel Wakefield pointed out to me as your northern boundary. I have permitted them to settle near you, but by no means to infringe upon you. They will locate on your northern frontier, within the limits I acquired by purchase from Te Wherowhero; and I trust you may find them as good neighbours as the Natives are about Auckland.

Have the goodness to point out to Mr. Whiteley your boundary line, and to inform him on behalf of the Natives where they may go without interfering with the settlers. I do not contemplate their having more land than they choose to cultivate, which certainly will not exceed 100 or 200 acres.

W. HOBSON.

Governor Hobson,  
25 April, 1842.

[*In Parl. Pap. 1846, No. 203, p. 70.*]

GOVERNORS' DECISIONS.

*First Report of Com. Spain.*

## IV.—EXTRACT FROM FIRST REPORT OF COMMISSIONER SPAIN, DATED TARANAKI, 12TH JUNE, 1844.

It appears to me that the Ngatiawa, who left this district after the fight, and 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 to the land they thus abandoned; and having admitted their title at Port Nicholson, by reason of their occupation and cultivation of the land there, from the time of their arrival there from this place up to the time of my decision, I could not, with the slightest regard for consistency in my awards, for one moment entertain any claim of theirs to this district. Had they returned before the sale, and, with the consent of their countrymen again cultivated the soil, I should have held that they were necessary parties to the sale.

It appears, however, that some of this tribe, after the arrival of the Europeans and the formation of the settlement, and when they thought themselves in consequence safe from their enemies, did return here and commenced cultivating land within the limits of the block previously alienated to the New Zealand Company. But I cannot, for the reasons before stated, admit their title; and if I did, I should be also obliged to admit that of all the others who might at any time think proper to return and claim payment.

From my first arrival at Wellington, the chiefs Moturoa, Wairapa, and others, who disputed the sale of that place to the Company, constantly told me that they should remain there until they got payment, and then come here and claim payment also for this place.

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 here to assert any claim, although they had full notice of the intention of my visit to this place, and some of their people and Wairapa's son travelled with me the whole journey.

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

[*In Parl. Pap., 8th April, 1846, p. 132.*]

## V.—EXTRACT FROM FINAL AWARD OF COMMISSIONER SPAIN, DATED AUCKLAND, 31ST MARCH, 1845.

*Final Award of Com. Spain.*

The Principal Agent having communicated to me that he was ready in any case where I might consider it expedient, to make a further payment to the natives, although not strictly legally or equitably due to them, I enquired of Mr. Clarke before entering upon the case, and several times after its commencement, whether he considered it would be expedient to offer any further payment to the claimants: but he invariably stated to me that this could not be done with safety; that he had not the slightest chance of inducing the natives to accept a composition, and that if they received any further payment, the Waikato would come down upon them and take it away; which would in all probability lead to a fight between them. I also heard from several authentic sources, that the Waikato, looking upon these people as slaves, were continually threatening to come to Taranaki, and take them back into a state of slavery.

Had it appeared expedient, I might have recommended, as a matter of policy only, but certainly not according to the evidence as a matter of right, that some payment should be made to the natives, as an act of grace on the part of the Company, calculated to assist in procuring a good understanding between the two races; but under the circumstances, and with the probable consequences so apparent, I feel it would have been unwise, inexpedient, and justly censurable, to have pursued such a course. If such an offer had been made, even by way of gratuity, I am satisfied, from the evident spirit manifested by all the aborigines I had seen since my arrival, that it would have been refused, and construed into an admission on my part that they had not sold their land,—besides rendering them still more determined to withhold the land from the Europeans. If, on the contrary, any such payment had been accepted by those who were then present, hundreds of other claimants would have soon sprung up from among the members of the same tribe, whom I have before described as now residing at Port Nicholson, Waikanae, and other places; while there would have been a strong probability of an attack from the Waikato.

Had Mr. Clarke (whose zeal in advocating the interests of the aborigines cannot be questioned for a moment) entertained the idea that the returned slaves had any just or equitable claim to the land, he surely ought to have brought forward such claim, and urged its recognition; but his speech to the natives on the close of the evidence, wherein he had expressed himself in strong terms to the effect that I had afforded him every opportunity of bringing forward evidence on the part of the natives, affords abundant proof that Mr. Clarke held no such doctrine. \* \* \*

The question, then, which your Excellency has raised, turns upon whether slaves taken in war, and Natives driven away, and prevented by fear of their conquerors from returning, forfeit their claims to land owned by them previously to such conquest.

And I most unhesitatingly affirm that all the information that I have been able to collect as to Native customs, throughout the length and breadth of this land, has led me to believe and declare the forfeiture of such right by aborigines so situated. In fact, I have always understood that this was a Native custom fully established and recognized; and I never recollect to have heard it questioned until your Excellency was pleased in the present instance to put forward a contrary doctrine.

Since that time I have made every further enquiry in my power amongst competent and disinterested persons, whose testimony has fully confirmed my original opinion,

I enclose a copy of a letter upon this subject received from the Rev. Mr. Ironside, a Wesleyan Missionary, who has been many years residing in New Zealand, and is well acquainted with the Taranaki Natives, and whose opinion is entitled to weight. \* \* \*

I am fully of opinion that the admission of the right of slaves who had been absent for a long period of years, to return at any time, and claim their right to land that had belonged to them previously to their being taken prisoners of war, and which before their return, and when they were in slavery, had been sold by the conquerors and resident Natives to third parties, would establish a most dangerous doctrine, calculated to throw doubts upon almost every European title to land in this country, not even excepting some of the purchases made by the Crown; would constantly expose every title to be questioned by any returned slave who might assert a former right to the land, let the period be ever so remote; and would prove a source of endless litigation and disagreement between the two races, a result which must soon stop the progress of civilization amongst the Natives, so essential to their amelioration. \* \*

Considering, however, the high trust reposed in me when I was charged by my Sovereign with such an important commission in this distant land; admitting at the same time the difficulties and perplexities which have met me at every step in its execution, and with the most sincere desire to perform my duty honestly, and justly, and with a due regard to the oath I have taken so to do; I can come to no other conclusion than that the Company is fairly and justly entitled to the whole block of sixty thousand acres of land; and therefore,

I, William Spain, Her Majesty's Commissioner for investigating and determining Titles and Claims to land in New Zealand, do hereby determine and award, &c., &c.

W. SPAIN.

[*In Parl. Pap., 8th April, 1846, pp. 49-63.*]

VI.—EXTRACT FROM PROCEEDINGS OF COMMISSIONER SPAIN'S COURT AT TARANAKI, JUNE, 1844.

The Commissioner then addressed Mr. Clarke, telling him that the time had now arrived for him to call any evidence he had to offer on the part of the Natives, upon the case before the Court; but that if he required time he would adjourn the Court to afford Mr. Clarke time to be prepared. Mr. Clarke requested an adjournment until the next morning, stating that he should then be fully prepared.

*Proceedings of Mr. Spain's Court, June, 1844.*

The Court met at 10, a.m., June 6th, pursuant to adjournment.

The Commissioner called on Mr. Clarke to produce any witness on behalf of the Natives. Mr. Clarke called Wahoa, who was examined in chief by Mr. Clarke, and cross-examined by the Principal Agent (of the New Zealand Company).

Mr. Clarke then said he had no more witnesses to call.

The Commissioner called on Mr. Clarke to explain to the Natives publicly that every opportunity had been afforded him by the Court of bringing forward evidence on their behalf, and that he had now declined bringing forward any more witnesses; but that the Court was ready to hear anything the Natives had to say.

Mr. Clarke explained this to the Natives, as follows:—

"My friends, hear my very short speech: You are all aware of the purpose for which I came to this place, namely to represent your claims and declare your thoughts to the Commissioner, and to see that all the necessary evidence is adduced. The Commissioner has given me every opportunity of calling such witnesses as I might deem necessary, but I have called only one, whose testimony you have just heard, because I think none of you have anything to advance which has not already been stated before Mr. Spain. Am I right when I say you have nothing more to tell? (Several answered, "Yes, yes, that is all we have to say.") Mr. Spain now adjourns his Court till Saturday morning; all the necessary evidence has been taken, and he wishes to have sufficient time to consider it calmly and quietly before he sees you again, that there may be no mistake. Return to your homes, and assemble here on Saturday morning at the same time you assembled this morning, in order that you may hear Mr. Spain's judgment."

[*In Parl. Pap., 8th April, 1846, p. 68.*]

VII.—EXTRACT OF LETTER FROM REV. SAMUEL IRONSIDE, WESLEYAN MISSIONARY, TO COMMISSIONER SPAIN, DATED 30TH OCTOBER, 1844.

With reference to the settlement of the land claim question in the New Plymouth district, I have no hesitation in stating my sincere conviction that to compensate the Natives residing in the neighbourhood for the lands claimed by the New Plymouth Company would be very injudicious, and might lead to disastrous results, which we should all deprecate.

The Waikato Chiefs who conquered Taranaki have not acknowledged, and do not acknowledge, the right of the Taranaki people to sell the land, on which they reside merely on sufferance; they look with jealousy on the proceedings of the returned slaves, still call the country their own, and I fear that compensating them—the Taranaki natives—would foster the jealousy and suspicion of their former masters, rouse their ire, and lead to an open rupture between the tribes. I may be wrong, but that is my opinion.

*Rev. S. Ironside, 30 Oct., 1844.*

## GOVERNORS' DECISIONS.

What is best to be done under the circumstances is another question, and a difficult one. I might however, suggest that ample provision of land should be made for the resident Natives, not in sections chosen by lottery, but in blocks of 5000 acres in the different directions now occupied by them; and if presents be made they should be made to the Waikato Chiefs, and not to the Taranaki Natives: this would allay the jealousy of Waikato, would not injure the resident Natives of Taranaki, and would thus tend to promote peace and order.

[*In Parl. Pap., 8th April, 1846, No. 263, p. 72*]

## VIII.—EXTRACT FROM REPORT OF PROTECTOR CLARKE, DATED 29th JUNE, 1844.

*Report of Protector  
Clarke.*

In order to enable you fully to comprehend the nature of the obstacles to the amicable settlement of this branch of the question, I feel it necessary to refer to circumstances which occurred nearly 14 years ago, when Te Rauparaha persuaded a large force of the Ngatiawa and other tribes to assist him in his wars with the original inhabitants of the northern and southern shores of Cook's Straits. The Waikato Natives, taking advantage of their absence, suddenly invaded the Taranaki district, and took Pukerangiora, a large pah on the Waitara River, capturing or destroying nearly 2,000 of the inhabitants; they then attacked Ngamotu, near the present settlement of New Plymouth, but without success, and were compelled to return to their own country. They afterwards cultivated a small portion of land formerly occupied by the Ngatimutunga, to the north of the Waitara River; but, if the accounts of the Natives now resident at New Plymouth are to be credited, they never cultivated any other part of the district. I believe a small party of them attempted to occupy land on the Waitara, but met with so much opposition from the original claimants that they were compelled to retire. On these circumstances the Waikato Natives formed their claims, but I believe they never took possession of, or exercised acts of ownership upon, the land generally. \* \* \*

After the introduction of Christianity into the district of Waikato, many of the Natives who had been taken prisoners at Taranaki, and reduced to slavery, were released by their masters, and permitted to return to their own country. These freed men first arrived there some months after the date of the purchase, and took possession of the spots they had formerly occupied and cultivated. Ever since which, parties of the tribe in Cook's Straits have been and are still daily returning, and resuming possession of the lands they respectively occupied before their migration to the southward. On the other hand, that portion of the Waikato tribes who are not more immediately under the influence of Te Whero Whero, and particularly the Natives of Mokau and the adjacent country, have expressed their determination to renew the contest with the Taranaki tribes, if they persist in a general re-occupation of the district, or accept of any payment from the Europeans.

Feeling that much of the future prospects of the Colony depends upon the view which the Government may be pleased to take of the state of the land question, I have endeavoured faithfully to lay before you the circumstances of each case as advanced by the Natives, with their sentiments thereon; and, as their official protector, I feel that I should not discharge my whole duty without, in conclusion, respectfully, but urgently, calling the attention of the Government to the evidence, as taken before Mr. Spain, and the immediate necessity of a final settlement of the grounds of dispute between the two races.

[*Sess. Pap. Gen. Assembly, 1860, E. No. 2.*]

## IX.—EXTRACT FROM REPORT OF MR. FORSAITH, 10th JULY, 1844.

10th July, 1844.

On the 17th May we left Wanganui, and travelling on through Waitotara, Otiho, Manawapou, Waimate, Kaupokonui, Otumataua, Waiaua, Warea, and Hauranga to New Plymouth, at which place we arrived on the 29th. The following day Mr. Clarke and myself visited the different settlements as far as Waitara, to request the attendance of the Natives at the Commissioner's Court.

On the 31st the Court opened, and the investigation was continued without any material interruption until the 6th June. On the 8th the Court again opened, when the Commissioner notified the nature of his decision upon the case, which was an award in favour of the Company, of all the land described in the chart which was exhibited, excepting some reserves which were specified, lying between Ngamotu on the South and Te Taniwha on the North.

When I interpreted Mr. Spain's decision, considerable excitement was at first manifested among the Natives, who strongly objected to it: but this ebullition of feeling subsided, and they refrained from all further expressions of discontent, except signifying their intention of appealing to His Excellency. On the 21st the "Victoria" arrived, and Mr. Spain (accompanied by Colonel Wakefield and Mr. Protector Clarke) embarked, and about 4 p.m. the brig again made sail. I (according to orders received by the brig) resumed my journey Northward, and arrived at Auckland on the 8th instant, having left New Plymouth on the 24th ultimo.

[*Not before published.*]

*T. S. Forsaith, Esq.,  
10 July, 1844.*



X.—LETTER FROM WIREMU KINGI WHITI AND OTHER NGATIWA CHIEFS TO GOVERNOR FITZROY,  
DATED TARANAKI, JUNE 8, 1844.

GOVERNORS' DECISIONS.

Wiremu Kingi,  
8 June, 1844.

FRIEND GOVERNOR,

Salutations! Great is our love to you; this is our speech to you. Listen to us respecting this land, respecting Waitara; our hearts are dark by reason of Mr. Spain's words. Indeed, the Europeans are wrong in striving for this land, which was never sold by its owners, the men of Ngatiawa.

Now, when the Ngatiawa tribe went to Kapiti, they left some men behind on our lands, who were surprised by the Waikatos, and some of them led away captive; who, having arrived at Waikato were afterwards returned by the Waikatos to Waitara to dwell there. Others came back from Kapiti. We love the land of our ancestors; we did not receive any of the goods of Colonel Wakefield; it was wrong to buy the land which belonged to other men. There are many Chiefs to whom this land belongs who are now at Waikanae and Arapaoa. It was love for the lands of our forefathers that brought us back to those lands. Friend Governor, our thoughts are that those lands were never settled by the Waikatos; and when we embraced Christianity, we learnt the rules of the Gospel, and to dwell in peace.

This also is the determination of our people. Waitara shall not be given up; the men to whom it belongs will hold it for themselves. There was not a single man of the Ngatiawa tribe who received the payment of Col. Wakefield. These are the only men who took the payment—the men of Ngamotu and Puketapu, and they had no right in Waitara. The Ngatiawas are constantly returning to their land, on account of their attachment to the land of our birth, the land which we have cultivated and which our ancestors marked out by boundaries and delivered to us. Friend Governor, do you not love your land—England—the land of your fathers? as we also love our land at Waitara. Friend, let your thoughts be good towards us. We desire not to strive with the Europeans, but, at the same time, we do not wish to have our land settled by them; rather let them be returned to the places which have been paid for by them, lest a root of quarrel remain between us and the Europeans. Friend Governor, be kind to the Natives; the places that have been justly purchased by the Europeans, let them have them, that your judgment may be just.

This is not from us only, but from all the Ngatiawa, though the greater part are absent. From Hakopa, Tipene, Te Watarau, Tutarahaina, Paturui, Te Wareraka, Tamati Tiraurau, Hirini, Mangonui.

By us, by all the men at Waikanae and Warekauri,

Written by me, WILLIAM KING WHITI.

[Not before published]

XI.—EXTRACTS FROM REPORTS FROM MR. PROTECTOR MCLEAN TO THE CHIEF PROTECTOR OF ABORIGINES  
IN 1844.

Taranaki, August 5, 1844.

Protector McLean,  
Aug. 5, 1844.

I have the honour to acquaint you that, in pursuance of your instructions of the 16th July, I proceeded on my journey to Taranaki on the 18th, calling at the station of the Rev. J. Whiteley, Wesleyan Missionary at Kawhia, who accompanied me to New Plymouth, at which place I arrived on the 28th. On the 29th, that gentleman went with me to visit the Natives at their different residences in the neighbourhood of Ngamotu, where we found a considerable degree of excitement and bad feeling existed among them, arising principally from portions of their lands having been occupied by the Europeans without the consent of the real owners, who were in captivity at the time the purchase was effected by the New Zealand Company from a small party of Natives, whose claims, I am given to believe, were but to a limited portion of the lands now claimed by the Company. I then took an opportunity of informing them that His Excellency was coming to remain at this settlement for a few days, and that he would hear their causes of complaint. They then assured me that, whatever their former resolutions might have been, they would be peaceable and not disturb the settlers till they saw His Excellency and made their case known to him.

I am happy to inform you that His Excellency's arrival here and his late interview with the Natives, has produced a most salutary effect in quelling their excited and angry feelings; and I am in hopes that an amicable arrangement will be entered into with regard to their lands.

When I have had further intercourse with the Natives, and am more acquainted with the different portions of land they dispute, I will be enabled to report to you more fully upon the matters to which you directed my attention in your instructions.

DONALD MCLEAN.

[Not before published.]

Taranaki, August 26, 1844.

Protector McLean,  
Aug. 26, 1844

I proceeded on the 12th instant to the Taniwha and Waitara, the Northern boundaries of the New Zealand Company's claims to land in this district. Having visited the Natives at their different pahi, and having afterwards had several of them collected together at the Waitara River, I made inquiries of them as to whether the lands there had been sold to the Company. They informed me that they had never consented to a sale of any portion of their lands in that neighbourhood; and further stated that the few Natives who assumed the right of sale to lands were not the owners thereof, but merely adduced a claim thereto from having had two of their relatives killed and buried there during some engagement with their rival tribes, the Waikatos.

## GOVERNORS' DECISIONS.

It is evident that there were fifteen Natives residing at the Waitara River at the time the sale was effected, who were unacquainted with it till some time afterwards, and who did not receive any share of the payment given by the Company. It appears that the principal Native owners of those lands, after a most disastrous conflict with the Natives of Waikato at a pah called Pukerangiora (about 8 miles from the entrance of Waitara River), in which many were slain and some taken captive, effected their escape and located themselves in different parts of the country, principally at Kapiti, Nelson, and Port Nicholson. From the latter place several of them found their way to the Chatham Islands.

Within the last two years many of those who left have returned, there being now about 250 Natives residing at their paha on the Waitara. This river has always been a favourite resort of the Natives. It is not probable that the Natives will be inclined to dispose of any of their lands in this particular neighbourhood. \* \* \*

DONALD McLEAN.

[Not before published.]

Protector McLean,  
17 Dec., 1844.

Taranaki, 17th December, 1844.

The Natives of Taniwha and Waitara, who occupy the northern portion of the land claimed by the New Zealand Company, have not shown at any time an inclination to dispose of the land in their neighbourhood, nor do they consider themselves empowered to negotiate for the same without the consent of several absentee Chiefs residing at Kapiti, who own the greater portion of the land. They do not acknowledge the claims of the Company to any part of that district; they never received payment, and were not cognisant of a sale thereof, and will not be induced to suffer European settlers to establish themselves there.

The Puketapu tribe residing at Mangoraka and the Hua, over whom Katatore assumed chieftainship, are desirous that the Europeans who have established themselves there should remain on the lands they have cultivated, but are prevented by Katatore, who will not allow of or consent to any information being given as to land, or individual portions pointed out, fearing it might prejudice his assumed influence, his own claim being but small.

His Excellency the Governor, whose arrival had been anxiously looked for, paid his second visit to this settlement on the 8th November, when I laid before him such information as I could procure; in addition to which I placed before him maps of the settlement, showing the extent of individual claims, both European and Native, as far as the claims of the latter could be obtained; also a statement of the feeling evinced by the Natives respecting their lands; after which His Excellency visited the neighbourhood of Mangoraka and Waitara, accompanied by Messrs. Whiteley and Turton (Wesleyan Missionaries) and myself, when he had an opportunity of conversing with the Natives, who still evinced no desire to allow the Europeans to remain. \* \* \*

The principal difficulties to contend with in the negotiations with the Natives, arose in a great measure from their elder men not having sufficient influence to direct and advise the younger and more unreasonable members of their tribes: the hereditary despotism of their chieftainship having become more apparently extinct in this district than in any other part of the island, chiefly in consequence of the exterminating wars which have been so prevalent here, in which many of the Chiefs were taken captive, and thus placed on an equality with their followers, so that every one, young and old, has now a voice in their deliberations, which often causes dissatisfaction and annoyance. This was very apparent on one occasion. Several of the young and unpractised orators of the Puketapu tribe had been waiting to exact a part of the payment from the people of Ngamotu for land they assumed a claim to in their district, and which occasioned a general dispute. Moturoa, the Chief from Port Nicholson, got up to assert his claim to some land at Omata. The resident Natives stated that he had no right to come and assert his claim to land from which he had been so long absent, having possessed himself of other lands in Cook's Straits, which he had sold to the Europeans, without considering his relatives, who were left behind to keep possession of and defend lands which he had forsaken. Moturoa, being a Chief of considerable importance, and unused to such insults from parties whom he did not consider his equals in rank or standing, was very indignant. Several of his and his wife's relations formed themselves into a party to revenge the treatment he was receiving, arming themselves with whatever weapons were at hand. Fortunately no collision then took place.

DONALD McLEAN.

[In Parl. Pap., 8th April, 1846, p. 143.]

## XII.—EXTRACT FROM A LETTER FROM MR. FORSAITH TO THE COLONIAL SECRETARY DATED 30TH AUGUST, 1844.

T. S. Forsaith, Esq.,  
30 Aug. 1844.

Enclosed is a copy of a communication from the Rev. J. Whiteley, of Kawhia, reporting his late visit to Taranaki, and offering some valuable suggestions relative to the settlement of the complicated claims to land in that district: which I do myself the honour to forward for the information of His Excellency the Governor, and would recommend the adoption of the forms submitted by Mr. Whiteley, as calculated to be of great assistance to Mr. McLean in classifying and arranging the information he has to obtain.

[Not before published.]

EXTRACTS FROM LETTER FROM REV. J. WHITELEY, (ENCLOSED IN PRECEDING) DATED AUGUST 15TH, 1844.

GOVERNORS' DECISIONS.

Rev. J. Whiteley,  
15 Aug. 1844.

On receiving your letter of July 16th, together with one from His Excellency requesting me to accompany Mr McLean to Taranaki, I immediately prepared for the journey, and a few hours after that gentleman arrived at my house we were on our way. I first, however, dispatched a messenger with a letter to the chief Haupokia Te Pakaru, wishing him to follow me as soon as possible, as I believed that his presence and influence at Taranaki would in the present state of affairs be most beneficial.

We arrived at New Plymouth on Tuesday the 30th ult., and in passing through the suburbs of the town endeavoured to see and converse with all the Natives we could meet with. The next day, accompanied by the Rev. Mr. Turton, we visited the settlements and had a long conversation with the Natives of Mangoraka, who are stated to have been the most dissatisfied and troublesome. On Thursday I was glad to hear that Haupokia had arrived at Waitara, and I arranged to spend the next day in private and friendly conversation with the different parties of Natives at their respective settlements. At dawn of day, however, the Governor's ship appeared in sight, and leaving Mr. McLean to arrange with the resident Natives, I rode off with Mr. Turton to bring up Haupokia from Waitara and the other Natives from their different localities. Some objected to go at all to meet His Excellency, and others were for putting it off until after the Sabbath on account of food. On arriving at Waitara however, and requesting Haupokia to attend at once, he instantly complied, and his example influenced all the rest, so that on Saturday morning we had the satisfaction of seeing all the Natives present before His Excellency.

The state of the Taranaki case requires our most serious and deliberate consideration, and in order to assist you in the difficult task of arranging the different and clashing interests of all parties, I have ventured to submit to your consideration the accompanying rough plan of schedules, the careful filling up of which would I think very materially simplify the business.

[Schedules above referred to.]

I. TARANAKI.—SCHEDULE OF PERSONS WHO SOLD TO THE COMPANY AND RECEIVED SOME PORTION OF PAYMENT, WITH A LIST OF THEIR LANDS SO SOLD.

Village or Residence.	Tribe or Hapu.	Names.				Name of land claimed & sold to Company.	Boundaries.				Quantity (supposed) in acres.	Goods or cash received in payment by each claimant respectively.
		Men.	Women.	Boys.	Girls.		E.	W.	N.	S.		

II. TARANAKI.—SCHEDULE OF RESIDENT NATIVES WHO HAVE NOT SOLD THEIR LANDS.

Village or Residence.	Tribe or Hapu.	Names.				Name of the land claimed.	Boundaries.				Quantity (supposed) in acres.	If willing to sell, what amount of payment required.
		Men.	Women.	Boys.	Girls.		E.	W.	N.	S.		

III. TARANAKI.—SCHEDULE OF ABSENTEES.

Kainga where now residing.	Tribe with whom residing.	District.	Names.				Name of former residence.	Name of land claimed.	Probable number of acres.	If willing to sell, what amount of payment.
			Men.	Women.	Boys.	Girls.				

[Not before published.]

XIII.—EXTRACT FROM MR. T. S. FORSAITH'S REPORT TO GOVERNOR FITZROY, DATED TARANAKI, 22ND OCTOBER, 1844.

Again, the Taranaki captives, released by the Waikatos from the purest and best of motives have assumed a position of importance which can hardly be tolerated by these powerful Chiefs, their former masters: and, in some instances the emancipists have so far forgotten their obligation and the respect due to their former conquerors as to ridicule the poverty and destitution of their present circumstances. I mention these circumstances because they afford a key to the interpretation of the sentiments of the Kawhia and Ngatimaniapoto Chiefs, which were formally conveyed to me

T. S. Forsaith, Esq.,  
22 Oct. 1844.

## GOVERNORS' DECISIONS.

T. S. Forsaith, Esq.

on the eve of my departure, and which appear to me to involve principles bearing an important relation to the Taranaki land question, the successful settlement of which is so great a desideratum and which your Excellency is now endeavouring to effect. I shall give these sentiments as nearly as possible in the same words in which they were delivered to me by the Chiefs, without comment; conscious that your Excellency alone can determine how far the principles they involve can be prudently brought forward in aid of the settlement of this intricate question.

"You are now going to Taranaki: listen to our parting words. That land is ours. We claim it by right of conquest, and some part of it by possession. We have power to enforce our claim if we choose, but our inclination is for peace not war. The Governor who is dead [Hobson] professed to buy the interests of the Waikatos in the lands of Taranaki, and paid Te Wherowhero for them. Te Wherowhero had a perfect right to sell his own or his tribe's interest, but not ours, he was not the principal man in subjugating Taranaki, many were before him: we do not recognise his sale; we might insist on our right to a payment equal to Te Wherowhero, but we are not so very anxious about that; we want Europeans. You have told us that the Governor will do all in his power to send them to us: now we will wait a reasonable time: if they come, well: if not, we must go to them. We hold the late Governor's permission to locate any of the lands at Taranaki provided we do not go south of Urenui. We sent the present occupants of Taranaki home to the land of their fathers: we did so from the influence of Christian principles, but we did not send them back to assume the airs of superiority they have done, or to molest the Europeans. They have Europeans but do not know how to treat them, we who would treat them well cannot get them. We are therefore determined in the event of no Europeans coming to us, to go back and resume our rights. We shall not go in hostile mood, though we shall go prepared to resist opposition. If kindly received and treated with respect by our former captives, we shall simply arrange for our joint occupation of the land: but on the contrary if opposed, we shall take the matter into our own hands and settle their disputes with the Europeans in our own way. Go and tell the Ngatiawa (Taranaki Natives) that the Waikato Chiefs remind them that the land is theirs, and advise them to settle their dispute with the Europeans, or the Waikatos will settle it for them."

[Not before published.]

## XIV.—EXTRACT FROM REPORT OF MR. PROTECTOR T. S. FORSAITH TO THE CHIEF PROTECTOR, DATED TARANAKI, NOVEMBER 23RD, 1844.

T. S. Forsaith, Esq.,  
23 Nov. 1844.

With reference to the present position of the land question, the settlement of which has engaged our anxious attention, I must not anticipate the full and particular report which it will be the object of Mr. McLean, as Protector for the District, to supply; but content myself with transmitting the enclosed copy of some suggestions which were drawn up and laid before His Excellency, founded upon the careful deliberations of Mr. McLean, myself, and the Rev. J. Whiteley, whose deep anxiety for the amicable termination of this dispute induced him at considerable personal sacrifice to travel hither from Kawhia in order to assist in its adjustment by his influence, which as you are well aware, is very great over the Natives of this district.

These suggestions have been so far approved by His Excellency that his decision has been based upon the general principles they embody: the modifications required in their practical application to the existing dispute will be doubtless made fully apparent in the more detailed report of Mr. McLean.

## EXTRACT FROM PROPOSALS ABOVE MENTIONED, DATED TARANAKI, NOVEMBER 1844.

Proposals on the Land  
Question, Nov. 1844.

There is no immediate prospect of obtaining the unanimous consent of the Natives to relinquish their claims on all the land claimed by the Company in this district: it is doubtful also whether they will consent to alienate all the land in the present occupation of settlers: and further, as it is quite possible that the Natives through ignorance or cupidity may reject the reasonable proposals of H. M.'s Government, even for such lands in the district as they might be induced to alienate, the following suggestions are submitted to His Excellency the Governor as the best apparent mode (should the Natives assume the position supposed) of averting the necessity of abandoning the settlement, an alternative as much to be deprecated on account of the injury it would inflict on the unconscious Natives themselves, as the ruin in which it would involve so many Europeans.

1. Let a block of land be marked out, bounded on the South by the Sugar Loaves, and on the North by the Waiwakaiho river, running back as far as the Company's surveys have been extended, or still further inland if mutually agreeable, which would comprise an area of 7150 acres. This block, which is principally claimed by those Natives who are best disposed towards the Europeans, will be found (it is imagined) amply sufficient for all the wants of the present settlers for a considerable time to come.

2. Let a definite sum be fixed as a fair and equitable price for this block, at a certain rate per acre; from which deduct the amount of payment any of the present claimants may have received from the Company: the unpaid resident Natives receiving their proportionate shares, and the residue lodged in trust for the absentees, who should have notice that unless their claims were preferred and substantiated within a given period (say twelvemonths) they would be considered forfeited. Such award should be final and absolute.

3. Let it be proclaimed that settlers within these limits should be protected, that as they would be amenable to the law for any injury they may inflict upon the Natives, so they (the Natives) will be punished for any breach of the peace towards the settlers, and that the means of punishment are at hand.

4. Let it also be proclaimed that the settlers beyond the limits of the specified block would be protected in their present possessions for months, during which period they should select within those limits land in lieu of that to be relinquished: that at the expiration of the term these settlers would remove with all their effects, that the Natives should offer them no molestation in so doing, nor annoy them or their families during the interval.

5. Supposing this plan to be adopted, a difficulty may arise relative to the Native Reserves. The block of land proposed to be purchased is computed to contain 7150 acres. The total number of acres occupied by settlers in the whole district is 2800; 1600 within and 1200 without the limits of the block. Therefore supposing all the Europeans moved on to this block, there would still remain a surplus of 4350 acres, out of which the reserves could be selected: or if this plan should be found inconvenient, the rule of reserving a tenth might be abandoned, and separate blocks marked out for the use of those Natives who were parties to the sale and who reside or are in the habit of cultivating within the prescribed limits.

[Not before published.]

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*Proposals on the Land Question.*  
Nov. 1844.

#### XV.—OFFICIAL ACCOUNT OF GOVERNOR FITZROY'S VISIT TO TARANAKI.

[TRANSLATION.]

On the 19th day of August the Governor returned from Taranaki; the cause of his going there, was the quarrels of the Maoris and Pakehas about the places of the Maoris which had not been quite settled for.

We arrived at Taranaki on the 2nd August, and on the third day the Maoris assembled to hear the talk of the Governor. A meeting was held, and the Maoris and Pakehas all attended. (There were probably 200 Maories and 80 Pakehas.) The Governor commenced to speak; he said:—

"My friends, the Maoris of this Island of New Zealand, I am glad that we have met together here. I hear that the Maoris and Pakehas of this place were disputing, and I came at once to make peace. Harken you: If a Maori behaves ill towards a Pakeha, or a Pakeha towards a Maori, it pains my heart. I have no wish to fight. I have one great work to do, it is this. I will not permit one man to behave ill to another. If I wished to bring many ships and many soldiers, I could do so: but as I do not desire war, I have but one vessel. I came from the other end of the world to assist your instructors, and to raise the Maori people.

I have many friends among the Native Chiefs, and had I spoken a word of war they would have come to assist me: but I considered that the Maoris were an intelligent people, who would listen to the words of their friends.

My heart was very dark when I heard that you were in trouble about your lands. Some portions were rightly purchased, and some wrongly. It was not that the Pakehas wished to act dishonestly, it was through mistake. The men who owned the land did not consent to sell their portions; I will seek for some plan (some way of settling the matter). But, remember you, not one of the Rangatiras of the Queen of England will consent to a man acting dishonestly, and if he consented that the land of a Maori should be taken, the payment for which had not been completed, that would be a theft. If I consented to take for nothing your lands, I should be like a thief. I did not come to New Zealand to steal.

If some of my Pakehas want places, there are many Chiefs who desire to sell to the Pakehas. Many Chiefs have come to me and asked me to let them have Pakehas; as I came away Taraia, Te Kawau, Weteri, and his son Putini, were urging to have their places sold to the Pakehas: and Weteri insisted upon selling the whole of one part of his land, but I did not consent. If I agreed to your selling the whole of your land, it would soon be all gone. I do not approve of that. Some of the Islands in the sea have been taken possession of by the Pakehas of Foreign nations. They had no consideration for the Natives of those Islands, they killed the men, and took the land. But England will not act in this way.

The Pakehas you see here who came from England, did not know that some of the places they occupied had not been quite settled for (paid for). The fault is not theirs, they fairly purchased. The fault was with those who sent them here. Now, my work is this, to carefully settle the question about the land, and I will arrange it thus. I will not consent to the Pakehas being expelled, but the matter must be left with me. I will not agree to your molesting the Pakehas, nor will I agree to the Pakehas molesting you.

I will insist upon quiet being maintained. If you do not listen, I will bring soldiers, that quiet may be kept.

In my opinion it is not just, if a man carried off by a war party as a slave, when he returns from slavery, finds his place gone, or his house, or anything else. No, if we were at war with any other nation, and I was taken as a slave, and afterwards liberated; if, when I returned to my place, I should find that my place had been sold, what would my thoughts be; would I consent? Not at all.

I heard of your dispute with the Pakehas, and I assembled the gentlemen who deliberated with me, we talked together, and when it was ended, I then came away. I now say to you, I will not

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*Official Report,*  
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consent to the Pakehas who have settled upon the place being expelled. It will be arranged by me. I will search for the parties who did not see the place sold.

Mr. McLean, who has come here as a Protector for you, will write down the names of those who have not received any payment, and of the persons who did not witness the selling of the place; when that is done I will come back again to settle this dispute; and if you will not consent to the Pakehas remaining, I will give them some other part. You have heard that there are many chiefs who desire to sell their land to the Pakeha; but, do not you molest the Pakehas who are residing upon your lands. If you remain quiet I shall be pleased with you, and will tell the Pakehas to keep quiet. Do to others as you would have others do to you. If we abide by this, we shall live in peace."

When the Governor had ended, one of the Maoris arose, some of his talk was good and some was bad; when he had finished, Te Waka arose, all his talk was good; he concluded, and Te Pakaru, one of the Waikato Chiefs stood up. His talk was good, all good. Mr. Whiteley then stood up, and spoke his good words. Enough, it was ended, and the men departed. Here also is some more of what was said to the men of that part of Taranaki.

Listen, Men of Taranaki residing in other places, and among other tribes. This is the Governor's speech to you respecting your lands at Taranaki; he says, he will not allow your lands to be taken away unjustly either by Europeans or Natives. The Ngatiawa did not behave rightly. When the Europeans went to Taranaki to buy land, they found only a few people there, consequently they thought that these men were the only proprietors of the land, they did not know that the greater number were absent. The few who were living there sold all the land of those who were absent, and when the absentees arrived they found Europeans settled on their lands, which has caused great annoyance both to Europeans and Natives. On this account the Governor says it is not a good purchase, and that he will not agree to the parts thus illegally sold.

Now this is the Governor's opinion, that all the Natives of Taranaki should go to their teachers, or to the Protector of the District who lives among them, and state the names of their places, and the Protector will write down the names of the owners and their estate, whether belonging to man, or woman, or child. And if such owner agrees to sell his place on reasonable terms it will be purchased, and he will receive payment. Men of Taranaki, make haste and go to your Protectors.

Men of Taranaki who reside on the spot, you have seen the Governor and you have heard his opinion. His plan is a good one, one that you must all accede to. He says that some of the land was not fairly purchased; but some of you are to blame; that is, those of you who were here and sold the land to the Europeans. You sold it, and named the boundaries, but you did not point out what was yours only. You did not think of your friends or relations who were absent, but included their estates as well. By which means you misled the Europeans; they thought you were the only proprietors; they imagined also that you sold both along the coast and inland.

Mr. McLean has been left by the Governor as a Protector for you; he will arrange about your lands. Be kind to him, and attentive to what he says; and point out your respective possessions correctly. Do not quarrel; do not say "all this is mine, all that belongs to me,"—but mark it out quietly, and do not encroach on any other person's possession, but let every man point out his own. Do you ask why we are thus to take down the names of your places? It is to prevent future mistakes. You have heard that no land will be taken unjustly. If you sell it to the Europeans, well; but you must be careful each to sell his own property, and then he will receive the payment himself.

You must not however form erroneous opinions respecting the payment. What is it that makes land valuable? It is labour. Without the labour what is the worth of land? It is worthless; now, if your lands were in a state of cultivation when you sold them, or if you were to work constantly on the land when sold, then you might expect a large payment. But the Europeans do all this, they work and cultivate their lands. All that you have to do is merely to part with your right to it, therefore you must not expect a large payment. It is different when Europeans deal with Europeans, then the payment is great, but you must not suppose that it is all for the land; in addition to the price of the land it is for bringing out labourers, and tools, and seeds, and cattle, in ships; for making roads, and bridges, and surveys, and many other things; the payment for the land only is very small. If you had anything to do with these works which makes land useful, *you* might ask a high price; but as I said before, you have nothing to do but to sell it, and therefore cannot expect a large payment. Leave it entirely with the Governor, and he will agree upon the best plan, and give you what is right and just.

You talk about turning off the Europeans who are occupying land not properly sold; very well, they can easily be removed. There is plenty of land elsewhere for them, but mind you do not wrong yourselves. If they remove and buy land of other Chiefs, you will sink into insignificance and others become exalted. Why do you wish to remove them? Is it for want of land? No, there is enough for you and them. You had better live together in peace, selling the portions you do not want to the Europeans. It is from having Europeans among you that you have been so much improved, and if the Europeans were to go you would fall back into your former state of poverty. If the English were to leave this Island the French would very soon take it, and their proceedings are very bad. Look at what they have done at Tahiti, they have taken their lands for nothing and killed hundreds of the inhabitants, and if the English were to leave you, the French would serve you the same. But it is different with the English, our thoughts are good, and your lands will be equitably bought. The Governor is kind to you and is doing all he can for your good.

Remember the words of God in the 17th Chapter of the Acts of the Apostles, "And hath made of one blood all nations of men, for to dwell on all the face of the earth, and hath determined the times before appointed, and the bounds of their habitations." Now when man was created,

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God said, "Be fruitful and multiply and replenish the earth." When will this land be filled by you? If it had been filled by you, Providence would not have allowed other nations to settle among you. Thousands of years have passed and your land is not yet filled. It was filled indeed formerly—filled with evil and covered with blood, therefore Providence hath sent a nation to mix with and live among you, to dwell on the face of the earth, to teach and improve you. Providence has also set a bound to their habitation. We are all of one blood, we have all one common Father, and it was our nation that brought you the Gospel and taught you to live in peace, and it is the English who would raise you in the scale of being. Therefore, why do you wish to turn them away? Rather be kind to them, and consider England, as your parent and the English as your friends and relations.

Remember also those of your own people who were taken captive to Waikato and have not returned: let their estates remain quiet, let no man interfere with them, so that when they return they may occupy if they choose, or sell them to the Europeans.

One more word and I have done. Look to the 6th of Romans, "The wages of sin is death." Now take care you do not seek death by doing wrong: remember it is said "Be sure your sin will find you out," and the Governor has told you that he has power to punish offences. Therefore, I say, live peaceably with the Europeans, and let your actions all be just, that we be not afraid of the judgment day."—[*Published in the "Maori Messenger" for September, 1844*]

## XVI.—EXTRACT FROM MEMORANDUM BY GOVERNOR FITZROY, DATED 2ND DECEMBER, 1844.

*Memorandum of  
Governor Fitzroy,  
2 Dec. 1844.*

At this time all the families of the Ngatiawa tribe, one of the largest in New Zealand, were scattered along the coast between Otaki, Porirua and Petoni, or on the northern shores of the Middle Island, or were in captivity among the Waikato, who had lately invaded and desolated the Taranaki and Waitara country; and these beautiful districts, excelling in soil, climate, abundance of wood and water, level country, and the best flax (*tihore*), were temporarily depopulated. But although they were thus almost without inhabitants at the time of the Company's supposed purchase of the whole country near Taranaki and the Waitara, they were neither wholly deserted nor permanently abandoned, as the presence of a small remnant of the Ngatiawa tribe at Ngamotu proves.

These districts were not occupied or settled in any way by the Waikato, who merely overran them, and then immediately retired to their own country, without cultivating the soil or constructing dwellings. Nevertheless, as the Waikato claimed to be the conquerors of the Waitara and Taranaki country, and were not only nearer at hand, but much more formidable than the dispersed Ngatiawa, it was thought advisable to make a considerable payment to the principal chief of that powerful tribe, in consideration of his claim on behalf of the Waikato generally.

At the time of the desolating invasion above mentioned, by far the greater number of the Ngatiawa, with their principal men, were absent on a hostile excursion on the South. Those who suffered by death or captivity were an inferior minority. \* \* \*

Mr. Spain's award was made known in the middle of June, and on the 3rd of August a large meeting of English and Natives were assembled at New Plymouth to hear the final decision.

The Governor informed the assembly that he did not take the same view of the question as Mr. Commissioner Spain, and that he should not confirm the award of that gentleman, however carefully and conscientiously it had been weighed and delivered. On points of law, especially the law of New Zealand, considered with reference to national laws in general, authorities might differ without prejudice to the opinion of either, but it was for him, the Governor, to decide. He would immediately cause further investigation to be made, as to the various claimants to particular portions of land. He would then endeavour to make special arrangements with those claimants, and he would allow, in all their integrity, the claims of those of the Ngatiawa tribe who were not parties to the sale in 1840.

[*In Sess. Pap. Gen. Assembly, 1860, E. No. 2.*]

## XVII.—EXTRACT FROM REPORT OF MR. PROTECTOR KEMP TO THE SUPERINTENDENT OF THE SOUTHERN DIVISION, DATED WELLINGTON, 17TH SEPTEMBER, 1845.

*Protector Kemp,  
17 Sept. 1845.*

I beg to hand you the translation of a letter from some of the Chiefs living at Waikanae, (the Ngatiawa). You will perceive that a portion of them are desirous of returning to Taranaki, and propose to sell the lands they respectively hold. As I do not anticipate any negotiation of this kind with the Government, I shall refrain from entering fully on this subject further than by remarking that the claim appears to be of a doubtful character: that the whole of the tribe have not yet consented to remove, as it is uncertain whether the Ngatimaniapoto at Waikato will allow them to resume the territories they were many years ago obliged to surrender: and lastly but particularly, I was desired by Te Rauparaha not to recommend their claim as valid.

H. T. KEMP,  
Protector Aborigines.

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## LETTERS FROM WILLIAM KING AND OTHER NGATIWA CHIEFS TO THE SUPERINTENDENT OF THE SOUTHERN DIVISION.

Waikanae, September 2, 1845.

Friends Mr. Kemp, Major Richmond, and Colonel Wakefield. We are going to our place, Waitara. We are thinking of selling our place, Waikanae : we wish to sell this place : and if it be sold (bought) I, William King, shall, some time in October, go to take my father Reretawhangawhanga to Waitara. If it be calm in October; but if October is not calm enough, then in November. If you are agreed to these thoughts, hasten that I may hear the decision.

From WIREMU KINGI WITI.

## LETTER FROM HEKE.

Mr. Kemp and Major Richmond. Come here and look at our place ; we wish to sell our place Waikanae, lest any man should say he will sell it, and that we have no place to sell to you Europeans. Come and buy our place.

From HEKE.

## LETTER FROM RERETAWHANGAWHANGA AND OTHER CHIEFS.

Friend, Major Richmond,—I have now begun to consider for the people. All their words are agreed in the same thought to sell the land (Waikanae) in order that when we leave our land shall have been paid for by Major Richmond. Do not say this is false ; our desire to you is true, we wish to sell Waikanae.

From KATE TAKERE,  
WATA TE HERE,  
MAUNGARAKA HURIWARE,  
PATUKAWENGA TE NGOHI,  
RERETAWANGAWANGA.

*(Minutes on preceding Letters.)*

From Native Chiefs of the Ngatiawa tribe living at Waikanae. They state that they are desirous of returning to Waitara near Taranaki, and offer for sale the portions of land they respectively hold at Waikanae. The claim appears to be of doubtful character : indeed the whole subject is involved in difficulties of a serious nature, allusion to which has been made in my report of 17th September. I cannot recommend it to your Honor's consideration further than by suggesting that it would be desirable to persuade the Ngatiawa to remain where they are, as they form a wholesome check to any hostile proceedings against the settlers on the part of Ngatitaoa.

13th September, 1845.

H. T. KEMP,  
Protector Aborigines.

Inform the Natives that their letter will be forwarded to His Excellency the Governor, but I do not think it probable that he will purchase their land at Waikanae, and I advise them to remain there instead of removing to Taranaki.

M. RICHMOND.

September 22, 1845.

Read, R. F., October 30, 1845.

[*Not before published.*]

## XVIII.—EXTRACT OF DISPATCH FROM THE RIGHT HON. W. E. GLADSTONE TO GOVERNOR SIR GEORGE GREY, 2ND JULY, 1846.

Secretary of State,  
2 July, 1846.

I cannot but express my great surprise and regret at not having been placed by Captain FitzRoy in possession of a full report of the course which he pursued in this case, and of his reasons for that course. I, however, indulge the hope that you may have found yourself in a condition to give effect to the award of Mr. Spain in the case of the Company's claims at New Plymouth ; and, in any case, I rely on your endeavours to gain that end so far as you may have found it practicable, unless indeed, which I can hardly think probable, you may have seen reason to believe that the reversal of the Commissioner's judgment was a wise and just measure.

W. E. GLADSTONE.

[*In Sess. Pap. Gen. Assembly, E. No. 2, 1860.*]