

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.

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 Maoris 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.*]

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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 claims to land on the following grounds: (1) Hereditary claims, which are the best; (2) lands obtained by conquest; (3) lands the titles to 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 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. 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