

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 grandchildren, 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.

Complication of Claims.

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.

It will readily be admitted that this state of the Native Land Title is neither beneficial to the Native owner nor favourable to the acquisition of land for the English colonist. It is not favourable to the Native owners for the following reasons :—

Inconveniences of this Tenure.

Because the undisturbed possession of one acre is of more value than the nominal ownership of an hundred acres. To the Native owners.

Because the complication of claims is the fruitful source of discord among themselves.

Because the claim to widely-scattered estates distracts their attention from their religious duties, separates them from their pastors, and prevents improvement in their domestic and social habits.

Because the number of joint proprietors prevents the disposition of property by will or assignment, and makes it probable that, by the decrease of the Native race, large tracts of land may be nominally in the possession of a very few owners, and therefore an object of envy and ill will to the English settlers, in a continually increasing degree.

And it is unfavourable to the acquisition of land for the English colonists, because of the necessity which it involves of obtaining the consent of a large number of owners. Inconveniences to the Colonists.

The results of these inconveniences are :—

Results of these inconveniences.

A growing irritation between the two races.

A greater tenacity of land in the Native owners.

A re-kindling of Native wars upon old land questions.

And a schism among the English colonists, between those who support the Native rights and those who advocate, as they think, the interests of the Colony.

The remedy appears to be simple, viz. :—An unqualified recognition of the Native Land Title to the fullest extent, and with every legal security that would be given to any landed proprietor of our own race. The claims of private purchasers from the Natives before the colonization of the country, however large the extent or inadequate the consideration, have been treated with the greatest delicacy, and the lands so bought, after careful investigation of the Title, have been secured to the claimants by Crown Grants. In what respect is the Native owner inferior to the English purchaser? Why is the land which a tribe has sold to be secured by a Crown Grant, and not the land which it retains? Why is the English purchaser to have all the security which the law of England can give, and the Native owner, in the case of any such question as that which has arisen at Taranaki, to be left to the unchallenged decision of the Land Purchase Department. This one cause has been enough to spread a rankling feeling of insecurity over many parts of the country, and the respect for the Government has been lowered by the reduction of its agents to the level of mere purchasers of land.

Crown Grants are the remedy for this evil. Every Native in New Zealand already knows or may soon be taught what they mean. Once give them secure possession of their land, and the present fidgetty and suspicious sense of insecurity will disappear. Secure possession will lead naturally to a willingness to sell. A Registry of owners will remove the present fears of stealthy sales by a few out of the many joint proprietors. Roads would be desired all over the country, if the Native Tribes were sure that they would not be used as a means for taking away their land. Land leagues would fall to pieces, if every man had an interest in retaining his own liberty to let or sell; instead of an interest, as now, in preventing others from selling behind his back.

The enquiries to be made on this subject at the ensuing Native Council seem to be these:—

1. How many Tribes are willing to have their boundaries surveyed and defined; and to submit to arbitration any questions still in dispute between Tribe and Tribe.
2. Out of the general property of the Tribe what portion of land they wish to be secured to them as inalienable property?
3. Whether they wish to hold that portion of land in common or to have it divided among individual owners, without power of sale?
4. In what manner this restriction may be rescinded, and the Land of the Tribe or of individuals hereafter opened for sale.
5. What further portion of the property of the Tribe may be left open for sale, now or at any future time?
6. Whether this alienable property shall be held in common by the Tribe, and sold only by common consent; and if so, who should be the persons authorised to give that consent?