NATIVE TENURE.

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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.]

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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 Matatua, 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 Ruikakara 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 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