

Native views, and for converting those vague and unavailable rights into such titles vested in individuals as would enable transfer to be made to which the rules of English jurisprudence would apply.

MEMORANDUM by the Rev. JAMES W. STACK on the Nature of Title to Land according to Maori Custom.

THE value attached by the Maoris to land is evident from the fact that every part of the country was owned and named. Not only were the larger mountains, rivers, and plains named, but every hillock, streamlet, and valley.

Land was acquired by—

1. *Discovery and Original Occupation.*—Tradition relates that immediately on the arrival of the canoes from Hawaiki the crews dispersed themselves over the surrounding country for the purpose of taking possession, and that on several occasions parties coming from opposite directions met, when disputes arose about their respective claims to the land around them. Ngatoroirangi, the celebrated sorcerer, who arrived in the Arawa, nearly lost his life in attempting to reach the summit of Tongariro—his intention being to claim all the land he could see from that lofty peak.

2. *Conquest.*—When one tribe succeeded in destroying or driving away another tribe they took possession of their land. In 1873 a dispute arose between two old chiefs at Kaiapoi about the proportion of their respective claims to a reserve at Tawera (Oxford). Both rested their claims upon their descent from certain chiefs who took possession of the country many generations back. Arapata Koti claimed a larger share than Hakopa because his ancestor, Moki, was the first to claim the principal mountains of the range on the slopes of which the reserve was situated. He stated that after the defeat of Ngatimamoe at Pakihi, Ngaitahu took possession of the country as far south as Kaiapoi. Some years afterwards a party of young chiefs, consisting of Moki, Tanetiki, Maka, and Hikaturae, known as the Wharaunga-purahonui, went from mountain to mountain saying, "This for me," and "This for me." On seeing Whatarama (Mount Torlesse) Moki cried out, "This is mine, that my daughter, Te Aotukia, may possess a kilt of kakapo skins, to render her fragrant and beautiful." "Mine," cried Tanetiki, "that the kakapo may form a kilt for my daughter, Hini Mihi." "Mine," cried Hikaturae, "that the kakapo skins may form a *maro* for my daughter, Kaiata." "Stay," said Moki's slave, in a whisper, "do not be in a hurry to claim what you see;" whereupon he climbed up into a tree. "What are you doing there," asked his master? "Only breaking twigs to light a fire with," he replied. Presently he espied the peak of Kuratawhiti, which Turatawhiti had told them, before setting out on their expedition, was the best kakapo reserve. "My mountain Kuratawhiti," cried the slave. "Ours," rejoined his master. From that date Moki and his descendants claimed the exclusive right to hunt kakapo on the Kuratawhiti; and, as that claim was always respected, Arapata required that it should be recognised, when subdividing the reserve, by larger shares being given to the descendants of Moki.

3. *Inheritance.*—The example just cited illustrates succession, and a note (A) appended shows the mode of bequest.

4. *Purchase.*—Land was sometimes acquired in this way (by one *hapu* of the same tribe from another), garments, canoes, weapons, &c., being given in exchange. Wiremu te Hau, after the subdivision of the Kaiapoi reserve by Mr. Buller in 1860, when, in common with others, he received a section of fourteen acres in extent, continued to claim a part of the reserve called Tuahiwi, which had been unanimously made over to the Church of England as a site for a church and a school. He claimed it as having been bought by his ancestor under the following circumstances: One of the family died while on a visit to Kaiapoi, and was buried there. As the land belonged to a different *hapu*, there was a risk of the survivors being twitted with allowing their dead to be in other people's ground; consequently it was thought necessary for the honour of the family that the land around the grave should be bought. Accordingly negotiations were entered into with the owners, and Tane, the chief of Tuahiwi, received four *parawai* and ten other garments, and a *rakau paraoa*; for which he gave not only the grave but sufficient land about it for the cultivations of those who came to take care of it. While no one denied that Te Hau had a claim before the reserve was made, they said he forfeited his peculiar rights when he consented to the sale of the country to the Crown and accepted a share of the money paid for the lands situated elsewhere which were specially claimed by others. At Omihi Pakipaki gave the canoe *Toroa* for land for himself and his family.

5. *Gift.*—Land was sometimes given as a place of residence by one *hapu* to another, and sometimes to persons of different tribes; but it seems doubtful whether it was so given in perpetuity.

6. *Dowry.*—Land seems seldom if ever to have been given to a female marrying out of the tribe. Where a woman married a man of her own tribe who did not possess any land, the family would give them land for their cultivations, which would descend to her children; but, in the event of her dying without issue, the land reverted to her family.

Land was forfeited when the owners were driven off and the land occupied by their conquerors. But *occupation* was necessary to prove the conquest.

It is one of the complaints of Ngaitahu that Ngatitoea were paid by the Government for the land between Kaiapoi and Cook Strait; for, although they admit that they were driven far to the south of Kaiapoi, they say Ngatitoea did not occupy the country, and therefore could not claim to be paid for it. The territories of each tribe were divided amongst the *hapus*, and these again amongst the individuals of which they were composed, the superior chiefs being entitled to the largest shares. The land owned by any one individual was not situated in one block, but consisted of a number of small patches scattered over a considerable area. In order to retain possession of these it was necessary that the rights of ownership should be exercised within a reasonable time; when this was not done the particular portion neglected reverted to those through whom the title to it was derived.