

usually recognised by the Native Land Court, and in other cases the only plan is to ascertain the Maori usage or custom relating to the ownership of the land before the Court, to respect all certain rights, and, where doubtful or not clearly ascertained, to allow justice, equity, a common-sense view, and the good conscience of the case to supply their place.

The Hon. the Native Minister, Wellington.

I have, &c.,
A. MACKAY.

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 subdivision 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. . . . 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.*]

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 what was 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 *hapos* must be consulted, in others the chiefs; much depends upon the personal character of the latter. I did not say that *hapos* or subdivisions of tribes had not a right of transfer of property. The various *hapos* 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.*]

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