

the same district: "In a place so thickly populated as I have before described this to be, the boundaries of the parts of the district belonging to each tribe or family are generally pretty well ascertained and admitted between them. As a proof of this I may mention that in the case of Native reserves great difficulty has been found in getting Natives belonging to one family to go on a reserve made within the boundary of the land belonging to another family, although it has been fully explained to them that the reserves are made for the benefit of the Natives generally and not for any particular tribe or family. They cannot understand this; and in several instances that have fallen under my notice they have positively refused to cultivate a Native reserve so situated, although at the time in actual want of a spot to grow their potatoes upon."

The New Zealanders have been in the constant habit of resisting, even to blood, any encroachment upon their territorial rights. They are not less disposed to resist now. For their determination on this point there are two reasons. (1.) That these rights (whatever names our lawyers may give them) are of great value to the Natives, as has been shown. They, like other men, are naturally disposed to retain, by force if necessary, that which they know to be a benefit to themselves. (2.) That every tribe sees, in any successful encroachment upon its territory, a peril to its own independence, and even to its existence, as a distinct tribe. An extreme jealousy on this point appears to be the natural result of their condition, and may with truth be described as the "passion" of this people. This has been a main cause of desolating wars. There is a common proverb, "*He wahine he oneone i ngaro ai te tangata*" (women and land are the destroyers of man). The pride of each tribe centres in its power to maintain its own possessions against aggression. This spirit in the Native people is closely akin to one which, if we were speaking of ourselves, we should describe as patriotism.

In New Zealand the claims to land are numerous; the claimants often live far apart from each other; and the people are especially slow and deliberative in settling the terms of a bargain. To make a good bargain there are needed length of time, publicity, and knowledge of the Native language. When these requisites are found purchases of land in New Zealand may be, and in a large number of cases have been, made as safely, at least, as in England.—[*Pamphlet of 1846.*]

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EXTRACT from a PAMPHLET by Sir WILLIAM MARTIN, in 1861.

1. THE land occupied by a Native community is the property of the whole community. Any member of the community may cultivate any portion of the waste land of the community. By so doing he acquires a right over that particular piece of land, and the right so acquired will pass to his children and to his descendants. If he have no descendants, the land may then be cultivated by others of the community, as agreed upon amongst themselves. Thus the whole community has a right like what we should call a reversionary right over every part of the land of the community. The word "community" is used here rather than the more common terms "tribe," "sub-tribe," or "family," for this reason: Each of the original tribes (*iwi*) of the Maoris has in course of time broken up into a great number of sub-tribes or families (*hapu*), which have from time to time planted themselves in separate villages on different parts of the common territory, each family retaining the name of its ancestor or founder. Such sub-tribes are exceedingly numerous. Sometimes it has happened that intermarriages for many generations between such sub-tribes have so blended them together as to render it impossible to draw any distinction between them for any practical purpose. Owing to this process of fusion and intermixture there may be a difficulty sometimes in determining the exact limits of the community. It may be the whole tribe (3); it may be less than the whole tribe, yet larger than any one sub-tribe or family. However that may be, every cultivator is a member of some community or society (4), and not free to deal with his land independently of that community or society.

2. The chief naturally represents and defends the rights of his people. He has his own personal interest like the rest. He is also especially charged with the protection of their honour and interests; and would lose all his influence if he did not assert their rights manfully. It is a common thing for the head man in a community to have but little claim upon a spot belonging to the community, and yet to claim great powers (5) in the disposal of it. In these matters the tribe generally support what he says. Still, as a general rule, he makes it his business to confer with the lesser chiefs and the whole tribe, and does not venture to act without them. In some very rare instances a chief has disposed of a piece of the land on his own authority without first consulting the people, and his act has been subsequently recognised. In cases of this kind much depends on the respect in which the chief is held by his people, and on a variety of circumstances affecting the internal politics of the community. To make a sale thoroughly regular and valid both chief and people should consent (6). In some cases the chiefship is divided—where, for example, a younger brother has by superior ability or bravery raised himself to the level of the elder, or even above him—so that in each particular purchase, there is a necessity for carefully ascertaining what is the community, and who the chief or chiefs whose consent is needed to make the sale thoroughly valid and unquestionable.

3. In old times land was sometimes ceded by one tribe to another as a payment for assistance rendered in war. Also, land was occasionally transferred as payment for losses in war. Where a chief of superior rank had been slain on one side, land was yielded up by the other, in order to end the war on fair terms. This was the case at Kororareka in the year 1837, when the Ngapuhi from Whangaroa, Matauri, and the Bay of Islands, made an attack on Kawiti and Pomare, at Kororareka. Hongi, a superior chief, fell; and, though the assailants were repulsed, Kororareka, together with a large portion of land as far as Cape Brett, was ceded to them. Even in our times lands have changed owners on account of a murder, or life otherwise lost.

4. The holdings of individual cultivators are their own as against other individuals of the community. No other individual—not even the chief—can lawfully occupy or use any part of such hold-