

quarrels and disturbances. It frequently happens that two Natives equally interested in the same lands disagree on the question of its disposal. Numberless animosities originate from this source. . . . To obtain a specific title to lands held in common there must be some additional circumstances to support the pretensions—first discovery of trees, shooting pigeons, constructing eel-weirs, digging fern-root, making a road, receiving a wound, losing a friend, recovering from sickness; all or any of these acts give an undeniable right to special property in land heretofore considered common.

Conquest unless followed by possession gives no title. Were the Ngapuhis to claim the right of selling or exercising the sovereignty over the districts of the Thames, Kaipara, or Waikato in virtue of their former conquests their pretensions would be treated as contemptible and absurd, and so distinctly is this principle recognised that I have no doubt that any attempt to support and maintain the validity of titles derived from conquest only would be met by a most determined resistance, even if attempted by Her Majesty's Government. I have known slaves tenaciously maintaining their territorial rights while in a state of captivity; but I never knew a master to claim by virtue of his slave, or attempt to advance any pretensions founded on the capture of a landed proprietor. I have had large offers of land for sale by Natives still in captivity, and have been warmly reproved by these men for doubting the validity of their title.

Great changes have taken place in the internal regulation and division of districts, and lands have completely changed owners; but in every case possession has followed immediately on conquest. The claim to Taranaki preferred by the Waikatos is good so far as they have taken possession, but they did not wholly succeed in driving the Natives out of that district, who maintained their independence by resorting to different parts on the coast. I should therefore consider the principal right to land in the Taranaki District still vested in the original inhabitants. Again, the title of the tribes about Port Nicholson to land in the Taranaki District cannot be wholly extinct if they have kept up a friendly intercourse with the residents. Rauparaha, who conquered and took possession of parts of this country, would, in connection with his followers in the vicinity of Cook Strait, have large claims, but his title would no doubt be disputed by the original proprietors so soon as they were in a position to maintain their claims. A tribe never ceases to maintain their title to the lands of their fathers, nor could a purchase be considered complete and valid without the concurrence of the original proprietors. If a conqueror spares the lives of the conquered, and they thenceforth become amalgamated with his own tribe, he infallibly secures his own title by uniting the claims of the original possessors with his own. Possession of land, even for a number of years, does not give a right to alienate such property to Europeans without the consent of the original donor of the land, but it may be continued in the possession of descendants of the grantee to the latest generation.—[*Report to Governor Fitzroy: in Parl. Paper, 29th July, 1844.*]

ARCHDEACON HADFIELD.

ARE you acquainted with the nature of the Native tenure of land?—I ought to express some diffidence in replying to that question, but I may observe (in reference to the tenure acknowledged by Natives of the southern half of this Island, with which I am acquainted) that there is little or no difficulty on the subject.

What opportunities have you had of becoming acquainted with the subject?—The opportunities I have had of becoming acquainted with the subject arose from the fact of my having resided for four years in a Maori pa in which there were from five to six hundred men. My attention was particularly called to the subject at that time by the constant disputes about the purchases of land made by the New Zealand Company in Cook Strait. I was frequently applied to by Mr. Commissioner Spain to assist him in elucidating Maori customs about land. I may further state that after the collision at Wairau I made it part of my business to inquire into the subject, and after careful inquiry I came, in 1845, to a conclusion on the subject, which the experience of the last fifteen years has not tended in the slightest degree to alter.

State what you think to be the rights of the tribe in respect to land belonging to it?—I think that the right of each tribe to lands extends over the whole of the tribal territory, and entirely precludes the right of any other tribes over it. Such absolute tribal right may be classed under two heads—(1) The territory which has been in possession of the tribe for several generations, and to which no other claim had been previously known; (2) the territory acquired by conquest, occupation, or possession.

State what you understand to be the rights of individual members of the tribes in respect to land?—I believe that the rights of the individual members of the tribes are limited to those portions of the lands of the tribe which they have either cultivated or occupied, or on which they have exercised some act of ownership which is acknowledged as such by the tribe. I must be understood to mean that their title to such lands was simply that of holding for their own use and benefit. Their right was a good holding title as against every other member of the tribe. They might exchange land among themselves, but no one could alienate without the consent of the tribe. In the year 1845 I drew up a paper on the tenure of Native lands, which I gave to Sir George Grey, who promised to return it. He told me he sent a copy of it to the Colonial Office. He did not return the original to me; I understand that it was burnt with other papers at Auckland.

What do you understand to be the rights of the chief of the tribe in respect to land belonging to the tribe?—While looking over some papers a few weeks ago I accidentally discovered my original pencil notes which formed the rough draft of the paper on this subject to which I have just alluded, which I now produce, and with the permission of the Committee will read, as they must be conclusive as to what my opinion as to individual title was in 1845: "The chief of the tribe, since he has no absolute right over the territory of the various *hapu*, nor over the lands of individual freemen of his own *hapu*, cannot sell any lands but his own, or those belonging to the tribe