

the cession of sovereignty held that absolute right in the soil which, according to Maori usage, was vested in conquerors who had succeeded in displacing the original owners: and that right they sold. But though they could have no power or right of the sort stated by Sir W. Martin, it is true that they frequently threatened to renew their war on the Ngatiawa if they presumed to return to the district. The principal reason for no compensation being awarded to the Ngatiawa by Commissioner Spain in 1844, was, that the Protector of Aborigines specially charged with the maintenance of their interests himself declared, that if any payment were made, the Waikatos would certainly come down and take it.

## PAGE 24.

*"He could not possibly doubt the title of his Tribe."..... (Page 5)*

This argument could not be admitted even if there existed any doubt as to the occupation by the invaders. But whatever weight it might have had if the fact had been as here stated by Sir W. Martin, it must certainly fall to the ground if the assumption on which it rests is untrue. The occupation, cultivation, and possession by the invaders has been shown above (Note No. 13). But further, as was shown in the Governor's despatch of 4th December 1860, Wiremu Kingi asked and obtained the permission of Waikato to return. He knew very well, no one better, that it was not enough to get the consent of Sir George Grey—even when obtained by a distinct promise (which he broke) of settling on the north bank of the Waitara—without ensuring the sanction of Potatau. The Maoris know too well that the British Government has hitherto allowed them to fight out their own land quarrels in all parts of the North Island, to expect any safety, on account of the Queen's sovereignty, against their Maori enemies.

## NOTE 25.

*"It was recognised by the Government itself."..... (Page 5)*

It has been shown that the Government might have rested from the first on the Waikato cession; and they would very probably have done so, if they alone had been concerned. It was on the strength of that cession that Governor Hobson fixed the limits of occupation by the Waikatos at Urenui, some miles north of Waitara, so as not to interfere with the European settlement. But the case was complicated by the two purchases made by the New Zealand Company—one in Nov. 1839, from Wiremu Kingi himself and other absentee Ngatiawa Chiefs, the other in February 1840, from the few resident Ngatiawas at Taranaki. It was these purchases which Commissioner Spain investigated,—it was his judgment upon them that Governor Fitzroy refused to confirm. When, therefore, Governor Fitzroy stepped in to disallow the Commissioner's judgment, he, no doubt, admitted the Ngatiawas to a position which up to that time had been denied to them. But that position, as has been shown, certainly *did not recognise the tribal title at all*; and it was, as shown in the Governor's Despatch of the 4th December 1860, the extreme limit of the Ngatiawa right. Where the case is perverted is this:—The Government never pretended that, after Governor Fitzroy's proceedings in 1844, they could claim the Waikato cession in bar of the separate rights of the Ngatiawa families and individuals: they have admitted Teira's proprietary right as they would admit William King's. Where the Waikato cession is good against William King is, that it absolutely precludes such a right as he claims to prevent Teira and the others of his party from selling their own land: it would equally preclude Teira from preventing any one else from selling his.

## NOTE 26.

*"The right or might of the conqueror was wholly outside the Tribe."..... (Page 5)*

The argument as here put forward appears complete. It is, nevertheless, incorrect in some respects. No one well acquainted with Native Tenure can be ignorant that a conquered tribe seldom was allowed to return to the ancient possessions from which it had been driven out by conquest, without some conditions which clearly brought out the relative positions of conquerors and vanquished. It was a frequent practice for the conquered party to be under the obligation of paying tribute for some years in the shape of produce of the soil, before they were permitted to resume full possession of the land as their own. There is not the slightest doubt that this was very commonly done in the case of the manumitted Ngatiawa captives. It was specially done by Taonui, the head chief of Ngatimaniapoto, when he liberated Orowhatua, the father of Rawiri Waiawa: who carried his tribute up to Mokau River to present to Taonui and his tribe. Even in cases of sale of their land to the Crown, the Ngatiawa have repeatedly sent up portions of the payment to Waikato as an acknowledgment of the permission to return; and this was really necessary, for (as the Protector of Aborigines and Commissioner Spain stated in 1844) the Waikatos often openly threatened that, if the Ngatiawas presumed to receive any further payment themselves, they would undoubtedly come down and take it from them. This is not consistent with Sir W. Martin's declaration that "if the Tribe returned, they returned to all the rights they possessed before the invasion." Even if there had not been numerous cases of the same kind among other Tribes, in the conquests whereby the lands of the New Zealanders so constantly changed hands before the establishment of British sovereignty, there was indisputable evidence before Sir W. Martin that in the case of the Ngatiawa, they most certainly were never allowed to "enjoy their own again as of old."

The imposition of conditions on a vanquished Tribe in allowing them to return to their land was