other tribes of the children of Israel, then shall their inheritance be taken from the inheritance of our fathers, and shall be put to the inheritance of the tribe whereunto they are received. Let them marry whom they think best, only to the tribe of the family of their father shall they marry."

Other reasons may be assigned for these restrictions, such as the right of the tribe to require service from all its members, the necessity of keeping up their own numbers, and of preventing strangers from acquiring landed property to be used to the injury of the tribe.

There is reason to think that an independent right to alienate land without the consent of the tribe is unknown in New Zealand.

On the other hand, in the ample territory which each tribe at first possessed, there was probably much freedom of choice in the particular spot which each member might wish to cultivate. This spot became his own by right of occupation, and, in the absence of all forms of conveyance, descended to all his children and grandchildren, sons-in-law, and daughters-in-law, till the right which was at first personal became complicated by a multitude of claims. In the neighbourhood of fortified places these plots of ground, from the necessity of the case, were as minute as cottage-gardens near a populous town; and it may be taken for granted, as a general rule, that in such cases every acre of land will contain ten or twenty plots, and for every plot there will be ten or twenty claimants, as I have repeatedly found. In such cases, also, for the sake of mutual protection, the right of the tribe to control the alienation of land to foreigners would be most rigidly enforced.

Three points, then, seem to be clear on this subject—(1) That there was originally a distinct owner for every habitable spot in the Northern Island; (2) that these claims have become complicated by the obvious causes of inheritance and marriage, without forms of conveyance or bequest; (3) that these rights of ownership, whether in one or many joint proprietors, were not alienable without the consent of the tribe.—[*Memorandum to the Governor, May, 1860, in Sess. Paper E. No. 1.*]

Sir WILLIAM MARTIN, late Chief Justice of New Zealand.

So far as yet appears, the whole surface of these Islands, or as much of it as is of any value to man, has been appropriated by the Natives, and, with the exception of the part which they have sold, is held by them as property. Nowhere was any piece of land discovered or heard of [by the Commissioners] which was not owned by some person or set of persons. . . . . There might be several conflicting claimants of the same land; but, however the Natives might be divided amongst themselves as to the validity of any one of the several claims, still no man doubted that there was in every case a right of property subsisting in some one of the claimants. In this Northern Island, at least, it may now be regarded as absolutely certain that, with the exception of lands already purchased from the Natives, there is not an acre of land available for purposes of colonisation but has an owner amongst the Natives according to their own customs. . . . . .

For the most part the boundaries of property are well defined. In the immediate neighbourhood of such pas as are at present inhabited, land is often minutely subdivided, each separate piece belonging to some one person, who cultivates either alone or jointly with some member of his family. The same is the case in the neighbourhood of old pas, even though they may have been abandoned for many years. The titles of the former cultivations are remembered and maintained by their descendants.

Where the acts of appropriation in some past generation were of a less public nature, or took place a long time ago, the titles of the present claimants are, of course, much more difficult of proof. Out of cases of this kind the greater part of the existing disputes have arisen. Each of the claimants endeavours to prove some act of ownership exercised without opposition by one of his ancestors. Acts commonly alleged are cultivating, building a house or catching rats on the land, setting an eel-weir, cutting down a totara tree in the forest for a canoe, &c.

These claims in the ordinary course of things become sufficiently complicated, but are rendered much more so by the introduction of another set of claims which arise out of rights of conquest, enforced in very different degrees in different cases. Boundaries between different pieces of property have been often indicated by the Natives incidentally, without any question put or any previous reference to the subject, in spots now remote from any habitation of man—for example, on the edge of the forest between the Whanganui River and Tongariro; on the highest peak of the Aroha; at a stream in the heart of the wood between Tauranga and Rotorua. But between territories of different tribes there are often found tracts of land which are called *kainga tautohe* or (literally) debatable lands.

The lands of a tribe do not form one unbroken district, over which all members of the tribe may wander. On the contrary, they are divided into a number of districts appertaining to the several sub-tribes. Each sub-tribe consists of the descendants of a common ancestor (whose name it generally bears) who was, in former times, the conqueror, or in any other way the recognised owner of the district. These smaller districts are, in many cases, numerous; and for the most part are sufficiently well defined. Within each of them the families or members of the sub-tribe are free to range, both to take the natural products of the soil and to cultivate for themselves such portion of it as they may choose. There is no paramount or controlling power either in the tribe or in the sub-tribe to restrain or to direct the exercise of this right of appropriation. Each family or freeman may use and appropriate without leave of any. It is indeed a rude form of property—a natural stage in the progress towards the more complete appropriation of the earth's surface in the way familiar to ourselves. But, still, every right which exists, whether in one person or in more, is truly a right of property; and there does not, in this state of things, exist anything which can be correctly likened to a right of sovereignty as understood amongst us.

Mr. Spain says, in describing the Port Nicholson district: "There are seven divisions or families of a tribe, each claiming separate lands of their own, and certain rights and privileges which are sometimes wholly denied, and at others only partially admitted by the rest." Again, speaking of