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It would be difficult at this distant period to state precisely what gave the first Maori emigrants to this country a title to land on their landing on its shores. The following, however, appear the most reasonable, and are in accordance with what the Natives themselves affirm to be the fact. [Here instances follow of occupation, &c.]

Occupation gave a title to land in those early times, but occupation alone, without some other claim, subsequently did not. Mere occupation does not give a valid title. In cases of occupation without claim the occupant generally made some acknowledgment to the owner, in food or some other way, answering to our leases and rentals, but he had no right to sell.

Conquest alienates the land, but it has its quibbles. Conquest and occupation give a valid title to land. Conquest without occupation is doubtful. If the conquered party return, occupy, and hold the land from which they were driven the land is theirs. Hence the Tamaki land still remained in possession of the Thames Natives, though driven from it by Hongi; but they did not consider their occupation of it safe, and therefore sold it. If the conquered people return to their land by permission of the conqueror the land does not become theirs unless a transfer of the land is made to them by the conquerors. But all these acknowledged Native rights were by might often set aside, and arbitrary power ruled.

"*Mana*."—The term *mana*, in reference to land, I have occasionally heard, and have asked the question, "*He aha te mana o te whenua?*" and have received this answer: "*Aua hoki, ma te pakeha*." The answer implies that the term as applied to land had its origin in a mistaken conception of the meaning of Native words by Europeans. The term as applied to land is scarcely heard of in some districts. In the few instances in which I have heard it used its meaning is synonymous with *tikanga*, which expresses ownership, or delegated authority by the owner to sell, to manage the business, or to be the spokesman, as we employ an auctioneer or solicitor.

In the Bay of Islands, where land-purchases were first made, the Native of every degree of rank sold his land without reference to any other authority. It sometimes happens that the Natives will advise that the signature of a person of rank be added to a deed who has little or no claim to the land purchased; but this, I think, is done with a view to conciliate the person, knowing that such persons can and often do create disturbances if their names are left out, as they would consider they had been slighted. As a closing remark, I may say that I have not been able to discover that any such thing as "manorial right," distinct from ownership in a greater or less degree, has been lodged in the chief of a district, in the chief of a tribe, or in the chief of a *hapu*, or in any other person of the aborigines. And if there is such a thing as *mana o te whenua* it is a certain invisible, indescribable something to which the pakeha may attach a meaning wholly at variance with that which a Native may affix to it. Manorial rights, as Englishmen understand them, are foreign to the Natives, and if they have any such ideas they must have acquired them from Europeans.

It may be observed that scarcely any of the land of the aborigines of this country can be said to be the exclusive property of one individual, though the descent through which the party can trace their claim to the land they hold is by a single person. This person can sell if he likes without the consent of his party; the party selling without his consent would be a *hoko tahae*. This absence of the individualisation of property seems rather attributable to the state of the country than to any defect in the line of descent. Circumstanced as the Natives have been, they say one individual cannot hold his land against the attacks of enemies; therefore, for security, peace, and safety, it was necessary to give all the branches of a family a participation in the possession, though the individualisation of the descent is clearly recognised.

Tribal rights, or any uniform course of action, or general plan for their guidance in the management of their lands, or other affairs, I have not found to exist amongst the Natives of this country; nor do I believe they have any such plan or general rule. Each party or tribe seems to have been guided by existing circumstances in the management of their affairs.—[*Paper on Native Tenure, not before published.*]

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ALTHOUGH a tribe might have marched through a country, conquering all the Natives and occupying the ground over which they passed, yet if they failed to retain the lands so conquered in their possession, and allowed the former owners still to occupy it, or to return immediately afterwards and cultivate it without interruption for a period of years, in that case the consent of the conquerors to a sale to the Europeans without that of such resident Natives could not be admitted by me as a valid purchase. And I know of no rule laid down as binding upon or generally adopted by the nations of Europe in colonising a new country peopled by aboriginal inhabitants which would justify the taking of land from the actual occupiers and cultivators of the soil without their consent. On the contrary, I had the honour to quote in my last despatch the very opposite doctrine, as laid down by De Vattel.

I have set it down as a principle in sales of land in this country by the aborigines that the rights of the actual occupants must be acknowledged and extinguished before any title can be fairly maintained upon the strength of mere satisfaction of the claims of self-styled conquerors, who do not reside on nor cultivate the soil. In short, that possession confers upon the Natives of one tribe the only and real title to land as against any of their own countrymen; and that the residents, whether they be the original unsubdued proprietors, the conquerors who have retained their possession acquired in war, or captives who have been permitted to reoccupy their land on sufferance, in all cases the residents, and they alone, have the power of alienating any land.