

French example of the International law of Possession in New Caledonia in 1855.
https://openresearch-repository.anu.edu.au/bitstream/1885/132901/1/PSC_02.pdf (pp1-2)

COLONIAL ORIGINS

Several authors have traced with thoroughness and skill the impact of colonization on Melanesian society and Melanesian lands (notably Douglas 1972; Saussol 1971, 1979; Roux 1974, 1977¹). Bronwen Douglas cites the official attitude in Paris shortly after the annexation in 1853. It embodied the prevailing European distinction between the rights of civilized nations and those of '*peuplades sauvages*' not organized under recognizable governments:

The uncivilised inhabitants of a country have over that country only a limited right of domination, a sort of right of occupation ... A civilised power on establishing a colony in such a country, acquires a decisive power over the soil, or, in other terms, she acquires the right to extinguish the primitive title (Minister of the Navy and Colonies to Foreign Minister, 22 February 1854, cit. Douglas 1972:369).

A proclamation of 20 January 1855 by Governor Du Bouzet translated this principle into a recognition of the Melanesians' right only to land actually under cultivation. '*Vacante*', or unoccupied, land would constitute the *domaine* of the state and be available for settlement. The vagueness of the term '*vacante*' led to the overriding of Melanesian claims not only to their zone of hunting and gathering land but to their fallowed gardens as well, the French authorities not understanding the extent of the cycle of fallowing. In other respects, however, Du Bouzet's policies contained certain safeguards. Saussol and Roux regard the proclamation as effectively recognizing the rights of individual families and clans as proprietary rights. Further proclamations annulled all previous transfers of land to settlers, established the sole right of government to acquire land from Melanesians, and declared that in addition to their cultivations one tenth of the rural land available for sale to colonists would be reserved for Melanesians.

The attempt to distinguish between 'occupied' and 'vacant' lands was a classic one among European powers colonizing the Pacific, but like the British in New Zealand and the Germans in New Guinea the French soon found that truly vacant land - in the sense of land not subject to any claim by indigenous clans - was practically non-existent. Virtually all land was claimed or controlled by one or more clans and, if not subject to actual cultivation, formed their hunting and gathering zone. The anticipated straightforward survey of the land and location of settlement therefore did not take place; instead Melanesians, feeling threatened by settler encroachments, attacked isolated groups of settlers who thought they had bought proprietary rights by making presents to chiefs, or who had been installed by the administration without thorough consultation and agreement with the clans. The administration responded with punitive expeditions, widespread confiscation of land and confinement of offending or allegedly offending clans to small areas.