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RANGAHAUA WHANUI DISTRICT IIC

WAIROA

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FOREWORD

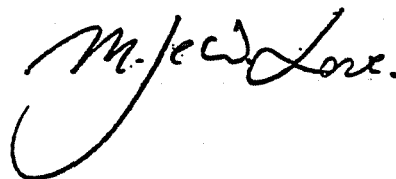
The research report that follows is one of a series of historical surveys commissioned by the Waitangi Tribunal as part of its Rangahaua Whanui programme. In its present form, it has the status of a working paper: first release. It is published now so that claimants and other interested parties can be aware of its contents and, should they so wish, comment on them and add further information and insights. The publication of the report is also an invitation to claimants and historians to enter into dialogue with the author. The Tribunal knows from experience that such a dialogue will enhance the value of the report when it is published in its final form. The views contained in the report are those of the author and are not those of the Waitangi Tribunal, which will receive the final version as evidence in its hearings of claims.

Other district reports have been, or will be, published in this series, which, when complete, will provide a national theme of loss of land and other resources by Maori since 1840. Each survey has been written in the light of the objectives of the Rangahaua Whanui project, as set out in a practice note by Chief Judge E T J Durie in September 1993 (see app 1).

I must emphasise that Rangahaua Whanui district surveys are intended to be one contribution only to the local and national issues, which are invariably complex and capable of being interpreted from more than one point of view. They have been written largely from published and printed sources and from archival materials, which were predominantly written in English by Pakeha. They make no claim to reflect Maori interpretations: that is the prerogative of kaumatua and claimant historians. This survey is to be seen as a first attempt to provide a context within which particular claims may be located and developed.

The Tribunal would welcome responses to this report, and comments should be addressed to:

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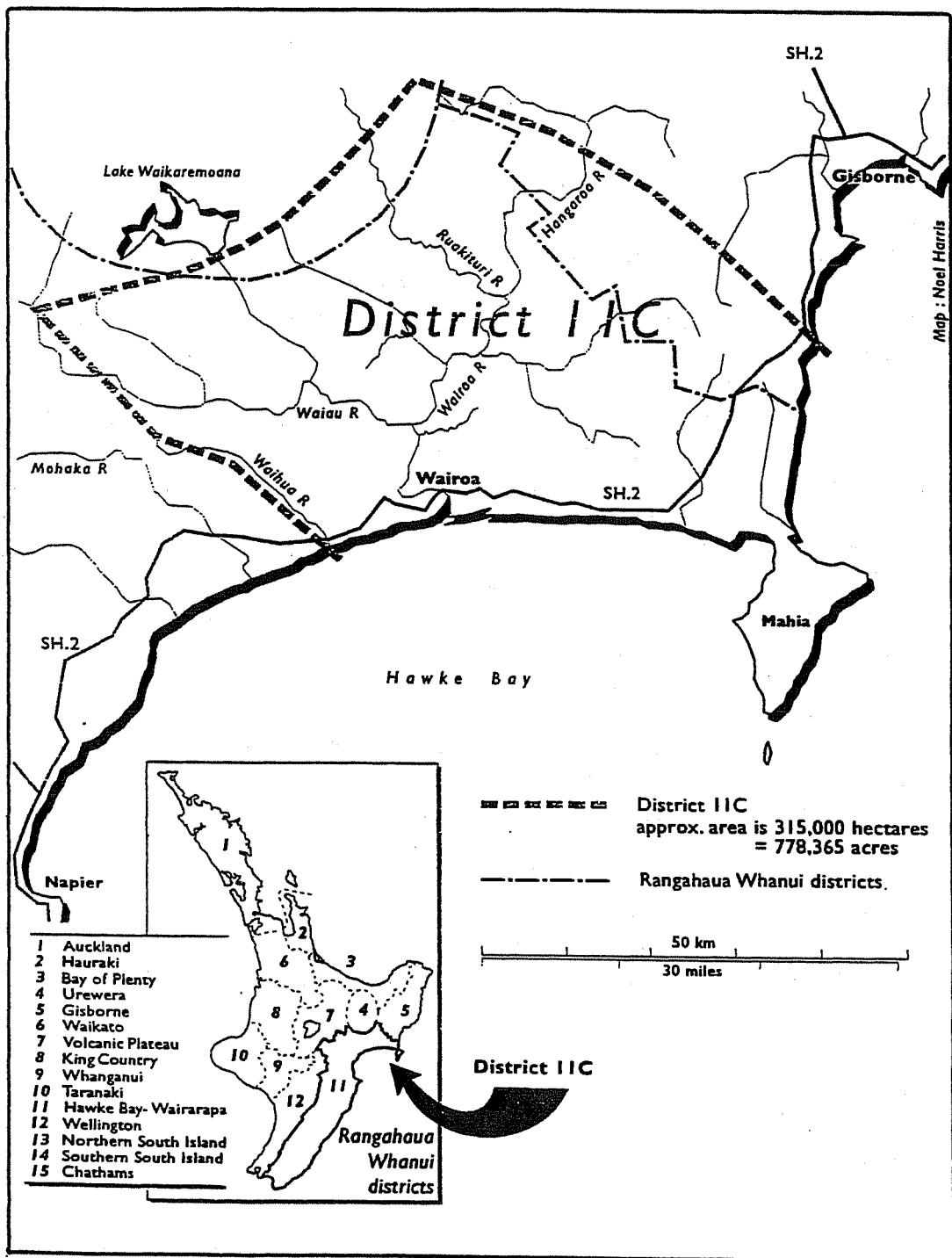


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PREFACE

The Rangahaua Whanui project

This report is part of a series of district reports written for the Waitangi Tribunal's Rangahaua Whanui project. As described in a practice note of 23 September 1993 the project was initiated by the Tribunal in order to provide an historical overview of relevant Crown policy and actions which contributed to Maori land loss and Treaty grievances (see app 1).

The area covered in this report is approximately 315,000 hectares or just over three-quarters of a million acres. In 1840 the whole of this area was owned, occupied, and utilised by Maori. Today, the amount of land still remaining in Maori ownership is approximately 14,900 hectares. This report is designed to act as a general overview of the major ways in which this land was alienated from Maori. Its first task, then, is to describe when the land was alienated. The second, to provide an explanation of how it was alienated.

The report commences with a brief description of the iwi and hapu of Wairoa. It provides the reader with a snapshot of those Maori groups that occupied the Wairoa district at 1840. This provides some link between the groups of 1840 and those who have claims before the Waitangi Tribunal today. Chapter 2 looks at the Crown purchases between the years 1864 and 1868. By 1868, the Crown had purchased approximately 186,794 acres. This chapter describes some of the methods used by the Crown in obtaining this land, and offers some explanation of the motives of Maori during this period. Chapter 3 mainly covers the period 1867 to 1877. It focuses on raupatu, or confiscation, and post-confiscation Crown purchases. Alienation through the Native Land Court is the topic of chapter 4. Chapter 5 looks at public works takings.

The Rangahaua Whanui district reports were to be written as much as possible from existing secondary research. This reports reflects that directive. The most useful source was the research of Angela Ballara and Gary Scott for the Wai 201 umbrella claim to the Waitangi Tribunal, on behalf of iwi of Wairoa ki Wairarapa. Ballara and Scott were commissioned by the Waitangi Tribunal to provide block alienation histories of Crown purchasing in the early Hawke's Bay provincial period. These reports, and the documents that were filed with them, were relied heavily upon, particular for chapter 2. Chapter 3 was based on an earlier report I did for the Waitangi Tribunal, 'Raupatu in Hawke's Bay' (Wai 201 ROD, doc I17). It was supplemented by the documents supplied by Ballara and Scott. For chapter 4 it was necessary to go back to the primary sources as there is a paucity of secondary sources which provide information on the alienation of Maori land through the Native Land Court in Wairoa in the nineteenth century. Alan Ward's thesis on the East Coast Maori Trust was the most useful source for the second part of this chapter. Chapter 5 was based on a general report on public work takings of Maori land, written by Cathy Marr for the Treaty of Waitangi Policy Unit (now the Office

Preface

of Treaty Settlements) in 1994. Specific examples were provided by Maori Affairs and Works files in National Archives. One secondary source which proved particularly useful was Thomas Lambert's *The Story of Old Wairoa and the East Coast*, even though he was a product of his time. It goes without saying, though, that the interpretation of their work in this report, and the conclusions arrived at, are my own.

I have worked full-time on this district report from mid-January to the end of June 1996, with a further two weeks in September for revisions. As a result of the time-frame, and the nature of its goal, to provide an overview based wherever possible on published sources, it must be noted that the findings of this report are often preliminary in nature. It is hoped that the claimants, in particular, will use this report to make submissions which add to the accuracy and breadth of the information so far written. Further research would be necessary before the Waitangi Tribunal could proceed to a major hearing of claims from the Wairoa district.

The Wairoa district

The Wairoa district takes its name from the main river flowing through it. From this river comes the name not only for the entire district but the town itself, despite the efforts of Pakeha to call it Clyde in the nineteenth century. For the purposes of this report the Wairoa district covers that area from the Waihua River, extending back to Lake Waikaremoana. From that lake, running along the southern boundary of the Urewera National Park, then across the top of the Hangaroa valley to Maraetaha on the East Coast. An area of approximately 315,000 hectares or just over three-quarters of a million acres. This area includes some of the land involved in the adjacent Gisborne district report. It was necessary to include this area because of the various hapu of Ngati Kahungunu who have interests in it.

This large expanse of country, which is mostly hilly, is drained by the Wairoa, Waihua, Nuhaka and Tahaenui Rivers, and numerous small streams. Along the various rivers there are alluvial flats, with the city of Wairoa situated on the alluvial flats on the southern bank of the Wairoa River, about two miles upstream from the mouth. The Wairoa River, about 50 miles long, is a continuation of the Ruakituri and Hangaroa Rivers. The Waikaretaheke flows from Waikaremoana and joins the Wairau, which is about 50 miles long. In 1966 the minimum flow of the Wairoa River was less than 500 cubic feet per second. It enters the sea about two miles below the town and there it is choked by a sand-bar. In the nineteenth century this sand-bar made navigation very difficult which served to help limit the progress of European settlement. In 1921 Wairoa still remained relatively unsettled by Europeans with no railway and only a marginal harbour.

In 1840 William Williams judged the Maori population of Te Mahia and Wairoa to be 3000.¹ In 1851 Donald McLean estimated the population of the Wairoa River settlements to be 2000.² He mentioned a Maori community of 280 residing at Te Mahia.³

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1. *The Turanga Journals*, p 101, cited in Ballara, 'The Origins of Ngati Kahungunu', pp 54-55
 2. Donald McLean, *Diaries and Notes 1851-56*, 31 January 1851, ATL
 3. McLean, *Diaries and Notes*, 28 February 1851

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The first European to set eyes on this district appears to have been Captain James Cook, who anchored westwards of Mahia Peninsula in October 1769 and noted the mouth of the Wairoa River on his chart. The first European visitors to the Wairoa district were flax traders and whalers. Barnet Burns, who claimed to be an agent of a Sydney firm and had settled at Mahia in June 1829, was possibly the earliest. Captain John William Harris is said to have arrived in the *Fanny* in 1831 and placed two men at points near Wairoa and Mahia to act as his trading agents. In 1837 two fisheries were established, one by the Ward brothers at Waikokopu and the other by a Mr Ellis at Mahia. The two fisheries employed about eight or nine five-oared boats, carrying six men in each, besides look-out men. Initially, black oil was the chief harvest, until sperm whales began showing up in 1842. Whaling continued in importance till 1853 at which time there were 50 boats engaged in the occupation. Wairoa itself was not a whaling success and most of the stations were near Mahia or south of Mohaka. Captain William Barnard Rhodes visited the district in December 1839 in the *Eleanor*. He established a trading station for the Sydney partnership of Cooper and Holt. Rhodes did not take up residence but left William Burton in charge as his manager.

In the wake of the whalers and traders came the missionaries. William Williams was the first missionary to visit the district, performing several baptisms at Wairoa in 1841. Later in that year Father Baty, a Roman Catholic missionary, visited Wairoa in the course of a journey to Lake Waikaremoana. The Reverend W C Dudley, who came to New Zealand in May 1842, with Bishop Selwyn, was apparently sent directly to Wairoa. He celebrated a number of baptisms in the district. Mr Dudley's health failed and on the visit of Bishop Selwyn in November 1842 he accompanied him back to Auckland. His residence at Wairoa extended to only a few months.

The next record of missionary activity at Wairoa is the establishment there, in December 1844, of Mr and Mrs James Hamlin of the Church Missionary Society, who had accompanied Mr and Mrs Colenso from Auckland in the brig *Nimrod*. Hamlin remained at Wairoa till 1863, when he retired to Auckland, where he died in 1865. His work was apparently not made easy by the conduct of the whalers, with whom the local Maori lived, until the whaling practically came to an end in the early fifties. With the demise of whaling Wairoa, during the 1850s, developed a sea trade with Napier (then called Ahuriri) in flax, fruit and timber, and several areas were leased from Maori for sheep and cattle runs. But generally, throughout the 1850s and well into the 1860s, the Wairoa district remained a back-water as far as European settlement was concerned.

LIST OF ABBREVIATIONS

AJHR	<i>Appendices to the Journals of the House of Representatives</i>
AJLC	<i>Appendices to the Journals of the Legislative Council</i>
app	appendix
ATL	Alexander Turnbull Library
BPP	<i>British Parliamentary Papers: Colonies New Zealand</i> (17 vols, Shannon, Irish University Press, 1968-69)
ch	chapter
doc	document
DOSLI	Department of Survey and Land Information
encl	enclosure
fn	footnote
fol	folio
JPS	<i>Journal of the Polynesian Society</i>
MA	Maori Affairs
MA-MLP-W	Maori Affairs - Maori Land Purchase Department - Wellington
NA	National Archives
NZPD	<i>New Zealand Parliamentary Debates</i>
OLC	old land claims series
p, pp	page, pages
pt	part
ROD	record of documents
s	section (of an Act)
sec	section (of this report, or of an article, book, etc)
sess	session
vol	volume
Wai	Waitangi Tribunal claim

CHAPTER 1

MAORI OCCUPATION OF WAIROA

1.1 SOURCES

The following account of Maori history in the Wairoa district is mainly drawn from the work of nineteenth and twentieth-century writers who have recorded Maori oral traditions from Wairoa and neighbouring districts. Nineteenth-century Pakeha authorities who wrote down and interpreted oral traditions include W E Gudgeon, S Percy Smith, T Lambert, and Elsdon Best. Twentieth-century writers include J G Wilson and J H Mitchell, who gathered Maori traditions in the first half of the present century. Their work has been re-examined by Angela Ballara, using the Native Land Court minutes of the nineteenth century as a major source, in her doctoral thesis 'The Origins of Ngati Kahungunu'. Ballara was also commissioned by the Waitangi Tribunal in 1991 to prepare a report for the claimants in respect of the Crown purchases in the Wairoa ki Wairarapa district (Wai 201 ROD, doc II). Her work has been heavily drawn upon in this report.

As in all reports of this nature, the material is subject to interpretation. The claimants need not feel this is the only version; but it is the one this author has come to on the material available to her. The purpose of this chapter is to introduce the hapu that had an interest in the district in 1840. However, the names mentioned may not necessarily be the only hapu associated with the area.

1.2 THE ORIGINS OF NGATI KAHUNGUNU

The origins of Ngati Kahungunu begin with Tamatea. One tradition suggests that Kahungunu's father, Tamatea, was the commander of the Takitimu canoe.¹ Gudgeon, Lambert and Mitchell all maintain that Tamatea-ariki-nui (or Tamatea-mai-tawhiti) captain of Takitumu and Tamatea-pokai-whenua, father of Kahungunu, were grandfather and grandson.²

In one version of events Tamatea left the Takitumu at Muriwhenua (Northland) before moving on to Tauranga;³ according to Mitchell he left it at Tauranga.⁴ He had

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1. Angela Heather Ballara, 'The Origins of Ngati Kahungunu', Phd thesis, Victoria University of Wellington, 1991, p 61
 2. W E Gudgeon, 'The Maori Tribes of the East Coast of New Zealand', JPS, vol 4, 1895, p 183; T Lambert, *The Story of Old Wairoa and the East Coast*, 2nd ed, Christchurch, Capper Press, 1977, p 257, although Lambert calls him the captain of Horouta, but still Tamatea of the migration; J H Mitchell, *Takitimu*, Southern Reprints, 1972, p 41
 3. See Ballara, 'Origins', p 61

a son named Rongakako, who married Muriwhenua and they had a son named Tamatea-urehaea.⁵ This son, says Mitchell, was 'born to be an explorer',⁶ thus the later name Tamatea-pokai-whenua. His travels took him to Kaitaia where he married three sisters, Te Onoonoiwaho, Iwipupu and Te Moanaikauia, descendants of Porourangi. To his wife, Iwipupu, was born a male child named Kahungunu.⁷ Leaving Muriwhenua, Tamatea travelled around a while before taking his family back to Tauranga. He subsequently went on via Whanganui to meet his fate by drowning at the Huka Falls on the Waikato River.⁸

1.3 THE STORY OF KAHUNGUNU

Although he was born in Tai Tokerau, Kahungunu grew to manhood in Tauranga. His adult travels started through a quarrel with his half brother, Whaene. Leaving Tauranga he journeyed to Opotiki, where he stayed with his first cousin, Haumanga, and her husband. He didn't stop long at Opotiki though, travelling on to Whangara, just up the coast from Turanganui (present day Gisborne).⁹

While visiting a pa on the hill Titirangi, above the Turanganui harbour, Kahungunu saw the smoke of the fires of a large settlement inland on the opposite side of the Waipaoa River. On asking who was living there, he was told that the pa was Popoia, owned by Ruapani.¹⁰ The people of whom Ruapani was chief, later known as Ngati Ruapani, controlled the land from Turanganui a Kiwa (Poverty Bay) to Waikaremoana, extending into the Huiarau range.¹¹ Gudgeon speculates that the early tribes of Poverty Bay were descendants of Maui-potiki, through the ancestor Toi. Other ancestors of these people were the crew of the Horouta canoe which came at least eight generations before Takitimu. These people were living under the mana of Ruapani when Kahungunu came from the north.¹² Gudgeon and Mitchell regarded Ruapani as the descendant of Paoa (the captain of Horouta) and Kiwa (its priest) for whom Turanganui a Kiwa and Te Moananui a Kiwa (the Pacific Ocean) were named. Paoa's daughter Hine-akua married Kahutuanui, the son of Kiwa.¹³

Kahungunu journeyed to Popoia where he married Ruapani's daughter Ruareretai. A daughter named Ruahereheretieke was born to them. After a time Kahungunu started on his travels again. This time he proceeded to Whareongaonga where he married Hinepuariari, a daughter of Panui. He also married her sister, Kahukurawaiaraia. Hinepuariari had two children, Powhiro and another, while Kahukurawaiaraia also bore two, Tuati and another.¹⁴

4. Mitchell, p 41

5. Ibid, p 42, 55; Lambert, p 258

6. Mitchell, p 56

7. Ibid, see genealogies, pp v, vi, for Iwipupu's whakapapa

8. Mitchell, p 59-60; Ballara, p 61

9. Mitchell, pp 75-76

10. Ibid, p 76

11. Ibid, p 26; Ballara, p 64

12. W E Gudgeon, 'The Maori Tribes of the East Coast of New Zealand', JPS, vol 5, 1896, p 1

13. Gudgeon, JPS, vol 6, 1897, p 177; Mitchell, p 22

Maori Occupation of Wairoa

Hearing of the famed beauty of Rongomaiwahine, from Te Mahia, Kahungunu journeyed on down the coast. On arriving at Tawapata, on the Mahia peninsula, Kahungunu found an established community where Rongomaiwahine lived with her husband, Tamatakutai. Rongomaiwahine is said to have been the daughter of Rapa who was descended from Popoto, captain of the Kurahaupo waka, and Ruawharo, priest of Takitumu (Ruawharo had travelled on down the east coast on Takitumu after it had dropped Tamatea off at Tauranga, see above). Her other parent was Moekakara, a descendant of Paikea.¹⁵ Tamatakutai's descent is not given.

Other early peoples living in the vicinity of Te Mahia and Wairoa were, according to Gudgeon, Ngati Rakaipaaka, a people who claimed descent from the ancestor Ruakapuanui and who subsequently intermarried with and became indistinguishable from the descendants of Kahungunu's grandson, Rakaipaaka;¹⁶ and Ngai Tahu, the descendants of Porourangi's younger brother Tahupotiki, who lived in this district before migrating to the South Island. Another people living in the Wairoa and Waiiau valleys was a tribe called Ngai Taurira, descended from Hotunui of Tainui, through Panui.¹⁷

On finding Rongomaiwahine married to Tamatakutai, Kahungunu proceeded to win her through trickery.¹⁸ His success and their subsequent relationship was, says Mitchell, 'one of the most important love matches of the East Coast . . . it undoubtedly changed the whole Maori history of the East Coast'.¹⁹

According to Mitchell the first child born to the couple was not Kahungunu's but that of Rongomaiwahine's first husband, Tamatakutai. The child, a girl, was named Hinerauri. The children of Kahungunu and Rongomaiwahine were Kahukuranui (m), Rongomaipapa (f), Tamateakota (m), Mahakinui (m), and Tauheikuri (f).²⁰

All of Kahungunu's children eventually migrated from Mahia to Turanganui, where they intermarried with prominent people of the Poverty Bay district. Kahungunu, however, continued to live at Mahia. His principal pa was Maungaakahia, situated on a high hill overlooking the sea on the eastern side of Mahia peninsula, north of Nukutaurua. About the year 1475, by which time Kahungunu was an old man, the pa at Mahia sustained a seige, by nephews of Kahungunu, Tutamure and Tamataipunoa (the sons of his cousin Haumanga from Opotiki). The only one of his children still remaining at home at the time was Tauheikuri and in order to achieve peace she was married to Tamataipunoa (the younger brother). They later went to live at Turanganui (Poverty Bay) where they had Tawhiwhi and Mahaki. From the latter descended the Poverty Bay tribe known as Te Aitangi-a-Mahaki.²¹

Kahungunu's fifth and last wife came through an expedition that he had arranged to avenge the death of Tuaiti, his son by his third wife, Kahukurawaiaraia. Tuaiti

14. Mitchell, p 76

15. Mitchell, see genealogies pp i, xxii

16. As Ruakapuanui was the son of Ruawharo, priest of Takitumu, they were marrying back into Takitumu anyway, see Mitchell genealogies, p i

17. Gudgeon, JPS, vol 5, 1896, p 2; Lambert, p 254-255; Mitchell, p i; Ballara, 'Origins', p 64

18. See Mitchell, pp 77-78

19. Ibid, p 79

20. Mitchell, pp 79-80

21. Ibid, pp 80-81

Wairoa

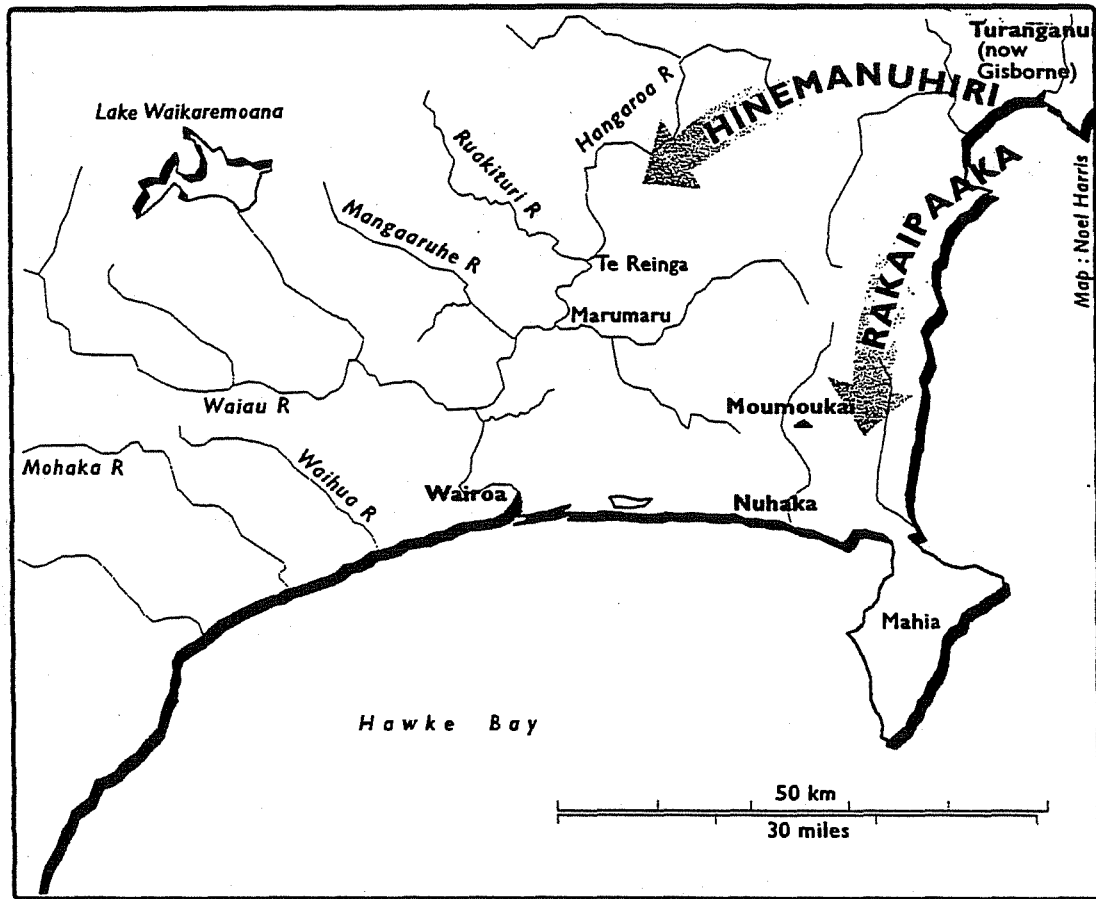


Figure 2: Hapu and migrations

married Moetai, a daughter of Moeahu of Poverty Bay. Their home was at Rurutawhao, on the Aranui block, to the north of Awamate. Te Rironga, a brother of Moetai, one day paid a visit to his sister. During his stay Tuaiti lured him across the river, ostensibly to gather the berries of the kahikatea which grew there. Te Rironga never returned, but was murdered by Tuaiti (why, the authorities do not say). The scene of the tragedy was in a bush gully on the Frasertown Road, not far from the junction of the Kauhoroa stream and the Wairoa River. Tuaiti returned alone and when his wife asked where her brother was, he replied that Te Rironga had returned to Poverty Bay (or Turanganui). His wife was suspicious in view of the fact that her brother had left without bidding her goodbye and her suspicions were increased by the fact that her husband crossed the river every day. Her certainty that her husband had murdered her brother was proved by smelling her husband's breath while he was asleep. His breath smelt strongly of human flesh.

Concealing the knowledge of her discovery from her husband, she communicated her suspicions to her father Moeahu, who raised a war-party. This was led by Rongowhakaata, the husband of her sister Kakahu-po. They eventually killed Tuaiti, putting his body into a canoe and pushing it into the Wairoa River,

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where it made its way downstream. It eventually grounded at Te Uhi-a-karoro (Te Uhi) where his own people found him.²²

When Kahungunu heard of his son's death and that Rongowhakaata had taken Moetai to Turanganui as a second wife, he travelled to Wairoa from Mahia and persuaded a Wairoa toa, Wekanui, to lead a taua to avenge the death of Tuaiti. The battle was fought at a pa named Kaiwhakareirei, on the site where the Ormond township was later built. The battle was fiercely fought and some important chiefs, namely Rakainui and Tahito Tarere, were killed. Kahungunu emerged the winner and two pa, Te Huia and Kaiwhakareirei, were taken. It was here that Wekanui captured Pou-Wharekura, a woman of high status, but as he led her away, Kahukuranui also claimed her. Kahungunu settled the argument by taking the woman himself. According to Lambert, the woman herself chose to go with him. As Mitchell says, 'evidently preferring to be an old man's darling rather than a young man's slave'.²³

The wives and children of Kahungunu (Mitchell, p 85)

Ruareretai	Hinepuariari	Kahukurawaiaraia	Rongomaiwahine	Pouwharekura
Ruahereheretieke (f)	Te Pohiro (m)	Tuaiti (m) Potirohia (m)	Kahukuranui (m) Rongomaipapa (f) Tamateakota* (m) Mahakinui (m) Tauheikuri (f)	Ruatapui (f)

* Married Rongakauae, daughter of Rongowhakaata and Moetai, Mitchell, p x.

1.4 THE STORY OF KAHUKURANUI

Kahukuranui was the eldest of the three sons of Kahungunu and Rongomaiwahine. He was born at Nukutaurua, on the Mahia peninsula. In adulthood he married Ruatapuwhine, the daughter of Ruapani, the paramount chief of the whole of the Turanganui (Poverty Bay) district. They lived at Waerenga-a-hika and had Rongomaitara, a daughter and Rakaihikuroa, a son.

He also married Tuteihonga, the widow of Tupouriao, chief of the people and pa of Otatara, near Taradale. They had two children, Hinemanuhiri and Rakaipaaka, who were later to have a very important bearing on the settlement of the Wairoa district.

Kahukuranui later married a third wife, Hinekumu, and had another son, Tamanuhiri.²⁴

22. Mitchell says Ngai Taurua, Lambert says Ngati Rutanga, although Lambert had earlier identified Ngai Taurua as living at Te Uhi, see p 256

23. Lambert, pp 265-266; Mitchell, pp 83-85

24. Mitchell, pp 94-96

1.5 THE MIGRATION FROM TURANGANUI IN THE DAYS OF HINEMANUHIRI AND RAKAIPAACA

There were various migrations from Turanganui but the one that was to have the most important bearing on the Wairoa district was the one involving Hinemanuhiri and Rakaipaaka. Their migration commenced because of a quarrel over a dog and the co-habiting of one of Rakaipaaka's men with the wife of Mahaki, Rakaipaaka's cousin. A fight ensued and Rakaipaaka nearly lost his life but because of his family connections to Ruapani²⁵ and Porou-rangi, not to mention their grandfather Kahungunu, his life was spared on the condition that he leave the district. Gathering his family and his sister Hinemanuhiri and her family, they departed into exile, returning to the general area of the lands of their grandmother, Rongomaiwahine.

Soon after leaving the Turanga area the party separated. Hinemanuhiri took the inland route via Hangaroa. She and her people settled in the locality now known as Te Mania, in the Marumaru district. Rakaipaaka took the coastal route to Mahia, his ancestral home. His descendants settled the Mahia peninsula, while he journeyed on to Nuhaka and settled at Moumoukai pa on the hills behind Nuhaka.²⁶

Rakaipaaka lived alongside the resident Ngai Tauria in peace for a generation. The peace was broken by a people called Te Ngarengare, whom Mitchell and Lambert considered to be a section of Ngai Tauria.²⁷ Rakaipaaka supported Ngai Tauria and together they defeated Te Ngarengare and drove them south to Heretaunga.

There was peace once again until Rakaihakeke, a grandson of Hinemanuhiri (his father was Tamaterangi) cohabited with Hinekura, a daughter of Mutu, son of Tauria. This led to the battle of Taupara, where Ngai Tauria were defeated and their pa Rakautihi taken. This battle firmly established Ngati Hinemanuhiri as a tribe in the Wairoa district. They seized all the lands of Tauria on both sides of the Wairoa River up to Waikaremoana, while Ngai Tauria were forced into a dependent status.²⁸

Two of Hinemanuhiri's children, Tamaterangi and Hinganga, both became eponymous ancestors of hapu; Ngai Tamaterangi and Ngati Hinganga who had claims on the Waiau and Ruakituri Rivers, respectively.²⁹ According to Ballara, the Ruakituri River was an informal boundary between Ngati Kahungunu and Ngati Kohatu, a people regarded as belonging to Tuhoë by some and to Ngati Kahungunu by others.³⁰

25. Not only had Kahungunu married Ruareretai (the first daughter of Ruapani) and Kahukuranui married Ruatupuwahine (another daughter of Ruapani) but Hinemanuhiri had married Pukaru (son of Ruapani). Another daughter of Kahungunu and Rongomaiwahine, Rongomai-papa married Ruapani himself and finally Rakaihikuroa (son of Kahukuranui and Ruatupuwahine) married Ruarauhanga (the last child of Ruapani and Rongomai-papa), Mitchell, p 25

26. Gudgeon, JPS, vol 5, 1896, p 10-11; Mitchell, pp 97-99; Ballara, p 175; Angela Ballara and Gary Scott, 'Crown Purchases of Maori Land in Early Provincial Hawke's Bay', claimants' report to the Waitangi Tribunal, 1994, p 37

27. Lambert, p 267; Mitchell, p 100; Ballara, 'Origins', p 175

28. Gudgeon, JPS, vol 5, 1896, pp 10-11; Mitchell, pp 101-103; Lambert, pp 269-271; Ballara, 'Origins', p 175

29. Ballara, 'Origins', p 177

30. Ibid, p 178; Smith, p 353; although Gudgeon called them descendants of Ruapani, JPS, vol 6, 1897, p 177

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Rakaihakeke married Hinekura after killing her parents at the battle of Taupara. They became the parents of Te Okuratawhiti who married Hinepehinga (a great-granddaughter of Hinemanuhiri) and they were the parents of the brothers Tapuwae and Te Maaha. In later life these brothers did not get along so their father placed them on opposite sides of the Wairoa River. Te Maaha on the eastern side and Tapuwae on the western. After their separation the names Te ari a Te Maaha and Te ari a Tapuwae were bestowed respectively on the eastern and western sides of the mouth of the river. The brothers remained separated until the intermarriage of their descendants brought them together again.³¹

According to Gudgeon and Mitchell, Tapuwae was the principal and most outstanding ancestor of the Wairoa district, from whom all the Wairoa rangatira derive their name and chieftainship.³² Mitchell gives a list of nine pa inhabited by Tapuwae's children by his two wives, Te Rauhina, sister of Te Huki, and Te Ruataumata. Tapuwae was buried close to the mouth of the Wairoa River, in the urupa called Tahuna-mai-Hawaiki.³³

Mitchell also records the pa of Tapuwae's nephew, Te O-Tane, the son of his younger brother Te Maaha; some of these pa were on the eastern side of the Wairoa River, others near or within the modern township, and one called Taramarama, on top of a high hill called Ohuka.³⁴

Another important ancestor of the Wairoa district was Te Huki. He was a descendant of Rakaipaaka. His first wife, Te Rangitohumare was the granddaughter of Te Whatuiapiti, the eponymous ancestor of the tribal name Ngai Te Whatuiapiti of Heretaunga. Their first son, Puruaute, was settled in the Wairoa district. The second son was Mataitai (1) who was placed at Mahia, from whom descended the chief Ihaka Whaanga and others. Their daughter Hineraru was married to Hopara, 'a prominent young chief of Porangahau'.³⁵

By his Nuhaka wife, Te Ropuhina, he had three sons: Te Rakato, who was settled at Mahia, to become the eponymous ancestor of the hapu Ngai Te Rakato; Tureia (2) was settled at Nuhaka, while Te Rehu was also settled at Nuhaka to become the prominent ancestor of that place and the origin of the hapu Ngai Te Rehu.

By his Poverty Bay wife, Rewanga, he had a daughter named Te Umupapa who married Marukawiti, the son of Kanohi (the eponymous ancestor of the hapu Ngati Kanohi). From this union descended Te Kani-a-Takirau of Whangara.

These marriage alliances and the kinship links they established were important because it was through them that the people could later unite and support each other when the need arose, such as during the musket wars in the early decades of the nineteenth century.³⁶

31. Mitchell, p 120-121

32. Gudgeon, JPS, vol 6, 1897, p 183; Mitchell, p 118

33. According to Mitchell, the origins of the name of this urupa came through Ruawharo. When Ruawharo left Hawaiki he brought with him sand, some of which he placed at Mahia and some at Wairoa, at Whakamahia beach called Tahuna-mai-Hawaiki. These places later became the principal burial-grounds, Mitchell, p 61

34. Ibid, p 129

35. Ibid, p 145

36. Ibid, pp 143-145

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Te Huki's son, Puruaaute, subsequently married Tapuwae's daughter, Te Matakaingaitihi. His first son was Te Kapuamatatoru. Mataitai (2) was the next, from whom Ihaka Whaanga was descended. Ihaka became the paramount chief of Nuhaka and Te Mahia. Puruaaute's third son was Te Kahu o te Rangi from whom descended Paora Rerepu, the celebrated chief of Mohaka.³⁷

Te Kapuamatatoru was another important ancestor in the Wairoa area. Some of Te Kapuamatatoru's descendants in the inland Wairoa area included Hata Tipoki, a descendant of the former's daughter Hineori; Kerei Te Otatu, a descendant of his daughter Hinetunge, eponymous ancestor of Ngati Hinetunge of the Waiau River district; Hamana Tiakiwai and Timi and Turi Kara (Carroll), descendants of his son Hinerara; Maraki Kohea and Heremia Te Popo, descendants of his son Kokotangiao; and Paora and Rawinia Te Apatu, descendants of his youngest daughter, Hineinohi.³⁸

Another important ancestor was Pourangahua, eponymous ancestor of the tribe Ngati Pourangahua or Te Aitanga-a-Pourangahua³⁹ of Te Papuni. He was a descendant of Hinganga, the daughter of Hinemanuhiri, and his hapu were Ngati Hinganga and Ngati Te Wahanga (or Wawahanga). His people's territory included the Te Tahora block, situated inland at the far end of the Ruakituri Valley. He married a woman named Hinewhe, they had a son called Hikawai, who married Te Mihi of Tuhoe and had Mahia. Mahia was also known as Koari and was the father of Wi Tipuna. This was not the same Te Koari who Donald McLean encountered at Wairoa in 1851.⁴⁰ Mahia or Koari had been killed by the Urewera at Papuni much earlier.⁴¹ The Te Koari who Donald McLean met may have been the Te Koari captured at Te Pakake pa in 1824 (see below).

The pattern reflected above is a continuous process of replacement of one set of iwi figures by another. By the eighteenth century, Rakaipaaka and his sister Hinemanuhiri were beginning to have at least as much relevance in Wairoa, Nuhaka and Mahia as Kahungunu and Ruapani.⁴² During the period 1769 to 1840 the major hapu of the Te Mahia-Wairoa region were Hinemanuhiri, Rakaipaaka, and Kahu.⁴³

The people known as Kahu occupied an intermediate position at the mouth of the Wairoa between Rakaipaaka and Ngati Hinemanuhiri to the east and north, and Ngati Pahauwera and its associated hapu to the south. Ballara maintains that they were descendants of Hinemanuhiri and Tapuwae and thus of Kahungunu, but according to Gudgeon they were the remnants of Ngai Taurira along with the Kurupakiaka hapu.⁴⁴

Other hapu with interests in the Mahia peninsula included Ngati Hikairo. Their lands were mainly at Tawapata. Hikairo was a descendant of Kahungunu through the latter's daughter Tauheikuri. However, they also claimed through their descent

37. Ibid, p 146

38. Ibid, p xx; and Ballara and Scott, 'Crown Purchases' re Wairoa

39. Elsdon Best, *Tuhoe, The Children of the Mist*, Wellington, A H & A W Reed, 1925, p 202

40. See Mitchell, pp 155; and Ballara and Scott, 'Crown Purchases' re Wairoa, p 5

41. Gisborne Minute Book no 18, MLC Gisborne, pp 8, 18; see also Smith, p 366

42. Ballara, 'Origins', pp 131-132

43. Ibid, p 167

44. Ballara, 'Origins', p 181; Gudgeon, JPS, vol 5, 1896, p 2

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from Rongomaiwahine, through her first daughter, Hinerauri. The Mahia people often claim the mana of the pre-Kahungunu tangata whenua and are known by the name Ngati Rongomaiwahine. Another hapu with claims to the Mahia block was Ngai (or Ngati) Tu. This hapu was one of the tangata whenua groups at Nukutaurua. They were living there in the 1820s.⁴⁵

In the Wairoa–Waikaremoana area there was Ngati Ruapani.⁴⁶ Despite the kinship links between these descent groups there was no unified tribal hierarchy with control over all the people. The most effective social and political groups were major hapu, although, as Ballara says, some of the larger and more powerful hapu could well be described by the European term 'tribe'. These major hapu were often associated with minor hapu, usually 'numerically small and relatively weak', which often derived from the major hapu by descent. But the basic social group, especially in times of peace, was the community of chiefs and people. Chiefs of differing degrees of status or mana led independent communities. The individuals within these communities could belong to more than one hapu (descent groups genealogically derived from earlier tribal figures) with developed or inherited complex rights to the mountains, valleys, swamps, forests, rivers, lagoons, lakes and coasts they occupied.⁴⁷

This pattern of independent communities survived the early contact with Europeans and persisted into the nineteenth century. In the early decades of the nineteenth century though, a new consciousness of the need for some form of wider identity emerged. Ballara maintains that Hinemanuhiri and Rakaipaaka had achieved similar importance to Kahungunu but 'they had not replaced him as founding ancestor of iwi when the region became subject to influences that caused changes in social organisation':

The apparently continuous process of establishment of new sets of eponymous ancestors of iwi was halted and reversed. Kahungunu gained in importance as factors promoting regional unification worked on the population.⁴⁸

One of the most important contributing factors to this consciousness was the pressure brought about by the invasions of northern tribes.

1.6 THE MUSKET WARS

From 1818, parts of the North Island were rent by increased tribal warfare. These conflicts have been termed the Musket Wars. Although not a 'new kind of war' – as Ballara points out, they were for the traditional reasons of mana, tapu and utu⁴⁹ – the introduction of the musket contributed to an unprecedented escalation of warfare. The wars began when the Nga Puhi, of the Tai Tokerau area, became the

45. J G Wilson, *History of Hawke's Bay*, Christchurch, Capper Press reprint, 1976, p 81; Ballara and Scott, 'Crown Purchases' re Mahia, p 3

46. Ballara, 'Origins', p 167

47. Ballara, 'Origins', pp 18–19; and Ballara and Scott 'Crown Purchases', pp 33–39

48. Ballara, 'Origins', p 133

49. *Ibid*, p 425

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first tribe to acquire significant numbers of muskets and used them to pay off old scores and increase their wealth and prestige.⁵⁰

The first expedition to the East Coast was in 1819 under Te Morenga, followed closely by Hongi Hika. In 1820 another expedition from the Bay of Islands under two chiefs, Te Wera Hauraki and Pomare, landed at Te Kawakawa, between Hicks Bay and the East Cape. After taking the strongly fortified pa on Te Whetu-matarau, Te Wera proceeded on to Waiapu and to various places along the coast as far as Nukutaurua. He arrived back in the Bay of Islands in April 1821 with 40 captives. These included Te Whareumu of Rakaipaaka and his sister. Te Wera subsequently took the sister as one of his wives.

In 1823 a large force of Nga Puhi attacked the island of Mokoia in Lake Rotorua, where Te Arawa had taken refuge. Te Wera had taken part in this attack and after the campaign was over proceeded on to Nukutaurua, bringing with him Te Whareumu, whom he had promised to restore to his own people. Arriving at Mahia, he found that word of his presence had spread and the people had fled into the hills or to Waikawa (Portland Island). After some time, Ngati Rakaipaaka, Ngati Hikairo and other hapu were persuaded to emerge from their retreats, assembling at Pukenui, Mahia. Te Whareumu addressed the assembled people, telling them how Te Wera had safely delivered him home. He then went on to offer Te Wera the mana over the land and the people in return for his protection against outside invading tribes. Te Wera agreed to remain with his musket-armed followers and protect his brother-in-law's people. Other women were given as wives to him and land at Whangawehi was granted to him and his people.⁵¹

Not long after Te Wera had established himself at Mahia, he was approached by Te Waikopiro of Mohaka and Te Hauwaho of Nga Tukuaterangi (a hapu of Ngati Te Whatuiapiti) of Heretaunga and persuaded to join a taua to attack Ngati Hawea of Heretaunga in revenge for earlier grievances. Setting out from Mahia, Te Wera's ope sailed to Heretaunga, landing at the mouth of the Tukituki River. They attacked Ngati Hawea, led by Te Moananui, killing about fifty people, although Te Moananui himself managed to escape. Te Wera's force then proceeded on to Te Awanga, killing everyone they encountered. They travelled through Te Moananui's territory as far as Te Kauae o Maui (Cape Kidnappers) before returning to camp in the pa Tanenuiarangi, on the south bank of the Ngaruroro.⁵²

When Pareihe, a chief of Ngai Te Whatuiapiti, heard of the killings at Tukituki and learned of the presence of Te Wera's force at Tanenuiarangi, he persuaded his people to make peace with Te Wera and Te Whareumu. Under threat of attack from Tuwharetoa and Ngati Raukawa of Maungatautari, he withdraw his people to a refuge at Nukutaurua on the Mahia peninsula. Before leaving, Pareihe tried to persuade Te Hauwaho, Tareha, Te Waka Kawatini, Tiakitai, Te Hapuku, Te Moananui and other Heretaunga chiefs to accompany him but they refused to

50. James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*, Auckland, Auckland University Press, 1986, p 20

51. W L Williams (Bishop), *East Coast Historical Records*, reprinted from the *Poverty Bay Herald*, Gisborne, 1932, p 4; S Percy Smith, *Maori Wars of the Nineteenth century*, Whitcombe and Tombs, 1910, pp 166-167, 263-264, 276, 278-281; Ballara, 'Origins', pp 441-442; Mitchell, pp 167-168

52. Ballara, 'Origins', p 442-443

follow him. Possibly, they were resentful of his assumption of mana and were determined to retain their independence. Leaving them to their fate, Pareihe retired to Nukutaurua. Some Wairarapa people accompanied him north. Weakened by attacks from Ngati Toa under Te Rauparaha, and fearing further invasion from the Taranaki tribes, themselves under pressure from the Waikato tribes, many of the people from the Wairarapa district decided to flee northward to Mahia for safety.⁵³

1.7 THE FALL OF TE PAKAKE, 1824

It was not long before Te Pakake, in Te Whanganui-a-Orotu, was attacked by Ngati Raukawa, Waikato and Tuwharetoa. Although the residents tried to defend the pa, without muskets they did not stand a chance. The chiefs, Te Hauwaho, Te Kauru and Te Humenga were killed as was Te Whakato of Wairoa. Te Hapuku was captured but he later managed to escape and make his way to Mahia. Te Moananui, Paora Kaiwhata, Tomoana and others were also captured. Te Koari of Wairoa was another captured but he was later given his liberty by Te Heuheu and on his return home he sent 20 men with a mere as a present to Te Heuheu. Tareha managed to escape capture by arriving too late for the battle. He arrived off Te Pakake in a canoe from Wairoa just after the pa had fallen.⁵⁴

According to Ballara, the Waikato chiefs, including Potatau Te Wherowhero, later seemed to have regretted their total victory. Peace was made and the captive chiefs were presented with a cask of gunpowder named 'Heretaunga' and a few muskets and released. Te Wherowhero also arranged that his son-in-law, the European trader Hampstead, should go to Heretaunga to load flax which could be traded in Port Jackson for muskets.⁵⁵

After the fall of Te Pakake there was a further migration of the tribes living in the Heretaunga district to Mahia, but some of the people remained in their old homes and in the course of time Te Pakake pa was occupied by them again.⁵⁶ The ones at Mahia were put to work preparing flax to trade for firearms. The quality of the fibre of the New Zealand flax (*Phormium tenax*) had first been commented on by Sir Joseph Banks;⁵⁷ now it was in great demand for the manufacture of ropes and cordage. Mercantile firms in Sydney placed agents in convenient positions to purchase the flax from the Maori and sent vessels to collect it from the various stations for the British market. The trade attained its greatest proportions in the year 1831, when 1062 tons were exported from Sydney.⁵⁸

The whaling fraternity was also encouraged and protected. It was deemed a great privilege to have a 'Pakeha', for the goods they could supply. Maori were more than ready to trade food in return for muskets and ammunition. In these circumstances, as Belich says, the more Pakeha, the better. But whaling ships were infrequent and

53. Smith, pp 281, 300-302; Ballara, 'Origins', pp 444, 446-447, 449

54. Smith, p 304-305; Mitchell, p 169; Ballara, 'Origins', p 45

55. Ballara, 'Origins', p 452

56. Smith, p 306

57. Anne Salmond, *Two Worlds: First Meeting Between Maori and Europeans, 1642-1772*, p 270

58. Williams, p 4

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they were never as big a source of supply as the trade in flax.⁵⁹ With the additional muskets, Te Wera and Pareihe were later able to go on the offensive and expel the raiders from Heretaunga.

Around the same time as the fall of Te Pakake, events were taking place in the Wairoa district that brought the northern Nga Puhi back to the district. A series of grievances against the Wairoa tribes led to the Tuhoe tribes calling on outside help from Pomare and Nga Puhi, Ngai Te Rangi of Tauranga, and Ngati Tama Te Ra of Hauraki, to exact revenge. Pomare left the Bay of Islands about May 1824, sailing around the East Cape, down the coast to Mahia and then on to Wairoa. The allies from the other tribes gathered with Tuhoe at Ruatahuna. Smith lists the forces assembled at Ruatahuna as: Ngati Maru of Hauraki, Ngai Te Rangi of Tauranga, Te Arawa of Rotorua, Ngati Awa of Whakatane, Whakatohea of Opotiki and Ngati Whatua of Kaipara, each having their own take against the Wairoa tribes.⁶⁰

The taua left Ruatahuna for Wairoa about June 1824. They divided into two separate parties; one going over the hills to Maungapohatu, through the beech forests to Te Papuni and down the Ruakituri Valley. Half way down the valley this group met a force of Ngati Hinganga or Pourangahua under Te Ua, Tuakiaki and others. In the fierce encounter that followed Te Ua was wounded and the rest were forced to retreat. The taua then turned towards Titirangi, a stronghold of Ngai Tamaterangi, situated on the hills some three miles up the Waiiau River from its junction with the Wairoa and under the command of Te Whenuariri, Hipara, Rangaika and other Ngai Tamaterangi chiefs.

The other taua was making its way to Titirangi over the Huiarau mountains, down to Lake Waikaremoana. Crossing the lake, they had come out at Te Onepoto, at the head of the Waikaretaheke River. Meanwhile the Nga Puhi taua under Pomare was approaching Titirangi from the Wairoa. Without waiting for the other tribes Pomare commenced the attack on Titirangi. Once again, without muskets the pa fell quickly with the loss of the chief Te Whenuariri. Ranga-ika, Hipara and other members of Ngai Tamaterangi escaped and fled to the wooded valley of Nuhaka.

The Tuhoe and their other allies, on arriving at Titirangi, found the pa fallen to Nga Puhi. They at once followed up the retreating Ngai Tamaterangi, picking up any stragglers they came across; but these were few, as all the tribes of the Wairoa district had retired to the forests of Nuhaka and the Mahia peninsula. In the Nuhaka valley they occupied Moumoukai, the old pa of Rakaipaaka, a hill 2065 feet high, some four miles inland from the shores of Hawke Bay. This was the main pa of Ngati Rakaipaaka and there is some dispute as to whether this pa was ever taken. According to Tuhoe tradition it was, but given that it was inaccessible except by a single-file track, which would not give the tribes with muskets any advantage, it would tend to bear out Ngati Rakaipaaka's view that it was not taken.⁶¹

The Tuhoe allies then went on to rout their enemies at Waikotero, near where Te Aparakau, a chief of Ngati Rakaipaaka, was killed by Te Ahikaiata and Te Maitaranui of Tuhoe. The people who escaped from these fights retired to

59. Ibid; Ballara, 'Origins', p 454; Belich, p 19

60. Smith, p 320

61. Personal comment, John Whaanga, Ngati Rakaipaaka

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Pukekaroro at Te Mahia peninsula, to join those from Heretaunga and other parts of the Hawke's Bay district.

Tuhoe and their allies now advanced to attack Pukekaroro. Before reaching there, they were met by Te Ratau, the father of Ihaka Whaanga, who was distantly related to some of the Tuhoe and therefore, although a member of Ngati Rakaipaaka, was quite safe amongst the latter tribe's enemies. He endeavoured to make peace with the allies and for that purpose presented the Tuhoe people with a valuable mere named 'Te Rama-apakura'. His overtures were clearly not acceptable to the whole of the chiefs, for after telling Te Ratau not to enter Pukekaroro, they laid siege to the latter pa. After some time Te Ratau again attempted to make peace and presented the allies with two other mere, name Kahawai and Kauae-hurihia. But the siege went on until the inhabitants were reduced to the point of starvation and forced to eat clay. Subsequently the pa was given the name Kaiuku (clay food). Ultimately the war party withdrew without taking the pa.⁶² In other versions of this battle, Tuwharetoa under Te Heuheu is also said to have been there.⁶³

This battle marked a pivotal point in Ngati Kahungunu tradition. The concentration of a large portion of the population of the entire Hawke's Bay and Wairarapa region, under their various rangatira, into a single unit had profound repercussions. As Ballara says, 'being forced to live and labour in close proximity, the refugees at Nukutaurua began to regard themselves as linked by common goals as well as by common adversity'. As well, living and working together so closely naturally resulted in intermarriage between the various groups. These new networks of kinship bound together the disparate communities of the region. The 'ideological base for a regional, social and political unit was in place'.⁶⁴ The battle also represented a turning point in the wars, as it was after this that Te Wera and Pareihe were to go on the offensive.

After the siege was over a kind of peace was made between Tuhoe and Ngati Kahungunu and the allies returned to their various homes. But the peace was not to be of an enduring nature because there were long-standing grievances still unresolved. Throughout 1826, Ngati Ruapani and Ngati Hinemanuhiri, as well as Ngati Pahauwera, fought a series of battles against Tuhoe and its allies of Ngati Awa, Whakatohea, Ngati Maru, and Ngati Raukawa. During these battles, Tuakiaki of Hinemanuhiri was killed at Pohaturoa pa while Tiaki, Mauri, Pikopiko, Paiaka and Mahia of Ngati Ruapani were all killed at Waikaremoana.⁶⁵

By 1838 the wars had ended; with most of the tribes provided with muskets there were no more easy victories and the balance was restored.⁶⁶ Peace agreements were arranged between former aggressors and victims. Between Tuhoe and Ngati Kahungunu the peace was arranged by Te Ahuru of Tuhoe and Hipara of Ngati

62. Smith, pp 320-328; J D H Buchanan, *The Maori History and Place Names of Hawke's Bay*, Wellington, A H & A W Reed, 1973, p 23; Ballara, 'Crown Purchases' re Wairoa, p 7

63. See Ballara, 'Origins', pp 452-453; and A L D Fraser, quoted in Lambert, also claimed the pa had been besieged by Te Heuheu and his forces, Lambert, p 321; Buchanan says Tuwharetoa and Waikato, Buchanan, p 23

64. Ballara, 'Origins', pp 467-468

65. Smith, pp 359-366

66. Belich, p 20

Kahungunu and his brother Puhirua. Hipara's daughter, Hinekirunga, was given in marriage to one of the Tuhoe in order to cement the peace. A symbolic marriage between two mountains near the Waikaretaheke River, Kuhatarewa of Kahungunu and Tuhiokahu of Tuhoe, also took place. This had the effect of not only binding the peace more firmly but also of laying down the boundaries between Tuhoe and Kahungunu. Ngati Kahungunu could now start returning to their homes.⁶⁷

1.8 CONCLUSION

The shared experience of invasion and successful expulsion of the enemy, consolidated by the years spent together at Nukutaurua and reinforced by networks of kinship, contributed to a new regional identity. Coupled with this was the fact that the expelled invaders, knowing little of local genealogy, had tended to regard the tangata whenua as one people. They had been defeated by a taua of mixed origins led by chiefs from Wairoa, Heretaunga and Wairarapa, but to the people of Waikato, Taranaki, Taupo, and Te Tai Tokerau, the people who had eventually defeated them were all Ngati Kahungunu. They identified them this way to the incoming settlers. In return, the people of the region were impelled to respond as a unit called Ngati Kahungunu to outside tribes.

The choice of the name 'Ngati Kahungunu' reflected the mana of his descendants. The people of the region could trace their origin to many different seminal ancestors, including some belonging to people resident in the area before the arrival of Kahungunu's descendants. But of them all, the descendants of Kahungunu had been the most consistently successful in colonising the area. The tendency to identify with the iwi Ngati Kahungunu was reinforced during the wars of the 1820s and 1830s. The chiefs who had been most successful in these wars, were the descendants of Kahungunu.

Having said this, once the wars were over, the old patterns of independence reasserted themselves. The chiefs re-established their hegemony over various combinations of hapu living as separate communities. The early Europeans arriving in the area did not encounter an established Ngati Kahungunu hierarchy.

To summarise, those hapu which were based in the Wairoa district after the resumption of traditional rohe in the late 1830s were: Hinemanuhiri, Rakaipaaka, Kahu, Kurupakiaka, Ngati Hikairo, Rongomaiwahine, Ngati Tu, and Ruapani.

67. Ballara, 'Crown Purchases', p 41; Smith, p 367; Best, p 551

CHAPTER 2

LAND SALES

2.1 OLD LAND CLAIMS

The first purchase of land in the Wairoa district appears to have been by William Barnard Rhodes. His purchase appears to be the only old land claim in this region. Rhodes was born in England on 9 May 1807. In 1839 he entered into partnership with the Sydney firm of Cooper and Holt. He left for New Zealand on the *Eleanor* in October 1839 to acquire land from the Maori and to establish cattle runs and trading stations.¹ By way of memorial, he claimed to have purchased, for himself and his partners, large tracts of land, amongst which were, on 10 December 1839, 345,000 acres at Wairoa for £185 and on 13 December 1839, 71,000 acres at Table Cape (Mahia Peninsula) for £50.²

Rhodes also claimed to have purchased land at Otaki and Waikanae. This claim came before the Spain commission because of its impingement on the New Zealand Company's claims. On 31 March 1845, Commissioner Spain recommended the issue of grants to the extent of 1415 acres for this claim but the grants were never issued. The Cooper, Holt and Rhodes Hawke's Bay claims were not reported upon or investigated, the other commissioners with responsibility for these, apparently never making it to Hawke's Bay. A long correspondence then took place between Rhodes and the Government, from 1845 to 1848, without the matter being settled.

Ultimately, the whole of Cooper, Holt, and Rhodes's claims were referred by Lieutenant Governor Eyre to the consideration of the McCleverty commission, notwithstanding Spain's decision. Colonel McCleverty, however, felt that the case did not fall under his cognisance so Eyre reserved it for the decision of Governor Grey, stating in a minute that it might materially affect the current question of the stay or departure from Waikanae of the 'Ngatiawas under William King'. Nothing was done until the year 1852, when Rhodes made a new application for the settlement of their claims. The matter was then referred by Grey to Francis Dillon

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1. Brad Patterson, 'Rhodes, William Barnard', *The Dictionary of New Zealand Biography*, Wellington, Internal Affairs, 1990, vol I, p 361
 2. The memorials are found in OLC 1/132-134, National Archives, Wellington. The names Rhodes claims to have purchased from are listed as 'Wanaga Tebatu Eappe Maraicowa Erapa and Poroiwi' for Wairoa and 'Wanga alias Brown Maracowai Tukareao Wariuma Peiro Erito' for Table Cape. I am unable to distinguish the names. Lambert quoted Rawinia Apatu, daughter of Te Apatu, as saying in the land court: 'My father sold all this land (Ohuia no 2) to Captain Rhodes. He took Paratene and others on board the vessel of Captain Rhodes, who put a 'pepeha' on the land. No one objected to the sale', T Lambert, *The Story of Old Wairoa and the East Coast*, 2nd ed, Christchurch, Capper Press, 1977, p 446.

Bell, Commissioner of Crown Lands, to report upon the claims generally, and suggest a course to be adopted.

Bell considered the whole case, and arrived at the conclusion that it would be unwise to issue the grants recommended by Spain either at Kapiti or Waikanae. He felt that the best solution would be to fix some total quantity of acres to settle all their claims and to give them a right of selection to that extent in the Ahuriri District, where the Crown had recently acquired the title to land. Grey concurred with Bell's proposal and proposed that in satisfaction of all the claims of Cooper, Holt and Rhodes:

That the Government would make a grant or grants to the extent of 2560 acres to Cooper, Holt & Rhodes, in full satisfaction of all claims whatsoever to land derived from Natives whether by original or derivative purchase: the selection of such 2560 acres to be made in not exceeding four blocks, and in any locality where the natives admitted that valid purchase had been made, whenever the Govt should acquire the land: All such selections to be subject to the general rules for protecting the public interest and to the approval of the Government.³

In a letter of 13 December 1852, Bell communicated this decision to Rhodes, at the same time requesting him to ascertain the assent of his partners. Rhodes, however, did not appear to either accept, or reject, the decision and made no selection under Bell's award at that time. In the event, the Government required the assent of his partners before they could allow any selections to be take place and they received no response from Rhodes's partners. What they did receive was a proposal from Rhodes that the claimants be allowed to select land at Waipureku (the site of Clive Township) in the Hawke's Bay, without committing themselves to a final acceptance or rejection of Bell's decision.

In May 1855 Bell wrote to Rhodes to inform him that it was necessary that steps be taken immediately respecting his decision. The Government was shortly going to offer for sale the land they had been negotiating for at Hawke's Bay. They needed to know whether the claimants were going to accept Bell's award, in order that if so, the right of selection granted by the Governor to them should be exercised. By now two years had passed without a conclusive decision from Rhodes and the Government was anxious to open the land for sale without Rhodes's claim hanging over their heads. On 7 May 1855 Bell received a letter from Rhodes on behalf of the claimants, in which he made the acceptance of Bell's award conditional on the Government; first, allowing him to select 1500 acres on the flat land around a station he already had at Clive; and second, granting him a pasture licence for a further 30,000 acres adjacent to where he had selected. The residue under the award, (between the 1500 and the 2560 acres) he wanted to be able to select in some other locality. In return, the claimants would surrender all their claims to the Crown.⁴

Bell referred the proposal to the Commissioner of Crown Lands at Ahuriri, Alfred Domett, who on 12 January 1856 informed Rhodes that they could not

3. F D Bell, 20 June 1862, 'Report for the Court of Claims', OLC 1/132-134

4. Ibid

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acquiesce in his May proposal. Domett pointed out that the Governor's decision of 1852 did not entitle the claimants to put conditions on their acceptance of it. He also stated that it had always been the intention of the Government to lay out a town, which had the possibility of becoming a principal town in the district, on the very spot the claimants wished to select. The 1500 acres they wanted would be suburban land to such a town, and 'beyond all comparison the most valuable piece of land in the district belonging to the Crown' (which is probably why Rhodes wanted it). With respect to the other conditions about a right of preemption over the residue of the flat land, Domett replied that 'it could not for a moment be entertained'. In short, Rhodes's proposal was declined and the township and suburban land were laid out and duly offered for public sale.⁵

On 19 June 1857, Rhodes addressed a letter to the then Chief Commissioner of Crown Lands in Wellington, William Fox, protesting against any further sales of land being made by the Government 'out of the Block in the Hawkes Bay District' until their claims were satisfied, according to the award approved by Grey. Sales were nevertheless continued.

Nothing further appears to have been done until 1858, when Rhodes had an interview with Colonial Secretary Stafford, who on 1 December recommended him to bring the case before Bell again, under the Land Claims Acts. Accordingly, on 22 June 1859, Rhodes addressed a notification to Bell of his claims, accompanied with a statement of particulars. Rhodes and Bell continued corresponding about the subject throughout 1860 to 1862.

In 1862, Bell wrote that he could see no grounds for interfering with the terms of his 1852 award, which Grey had concurred in. He thought this one of those cases:

which sometimes happen where a large fortune is within the grasp of some one, who hesitates and hesitates, till the opportunity is lost . . . If he had taken my advice and made his selection at once, he would, have had land which I suppose may be now taken to be worth at least £10,000.

He did not think Rhodes had any grounds for complaint:

I called upon him, more than two years after my award, to give a definite and final answer; if even then he had accepted the award he might perhaps have got the Waipureku land: but instead of doing so he made his acceptance conditional on things being done which he would, if he carefully reflected upon it, have seen it was impossible the Ahuriri Commisisoner should agree to. He in fact lost his own chance: and I have repeatedly told him, that I could not see that the public estate was equitably bound to compensate him for having lost it.⁶

He did have some sympathy for the £7297 the claimants had expended on buying land from Maori (of which £235 had been spent in the Wairoa district) with nothing to show for it. This matter was referred to the Government for consideration.⁷

5. Ibid
6. Ibid
7. Ibid

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At this stage I have been unable to determine if or where Rhodes ever took up his grant. Wilson believed that this may have been the origin of Rhodes's Clive Grange estate,⁸ but it appears that Rhodes already had a station at Clive.

2.2 LAND OFFERED TO DONALD McLEAN

In September 1849, Donald McLean, 'the most able and hitherto most successful negotiator', was appointed to purchase land in the Wairarapa on behalf of the New Zealand Company.⁹ McLean had been successfully negotiating purchases for Grey in Taranaki, Wanganui and Rangitikei. Throughout the following year he was detained with the final details of these purchases. In the meantime, the New Zealand Company had been forced to wind up its affairs. On 3 July 1850, McLean was instructed to cease all negotiations on behalf of the New Zealand Company. In October though he was instructed to proceed with the negotiations for the Wairarapa and Manawatu districts for the Government.¹⁰

Before commencing negotiations in the Wairarapa, however, McLean arrived in the Hawke's Bay on 11 December 1850 to begin negotiations for the purchase of that district. He was anxious to acquire land there as an outlet for the squatters illegally leasing land in the Wairarapa. If the settlers could be persuaded to move to Hawke's Bay, it would make his job of acquiring land in the Wairarapa much easier.¹¹ In Hawke's Bay McLean worked under considerable pressure to execute Grey's land purchase policy and to satisfy both settler demand for cheap land and chiefly ambitions to participate in the market economy and acquire European wealth and settlers.¹²

While at Ahuriri, McLean was offered land by three northern Hawke's Bay Maori. They were: Te Aotea, a chief of Te Wairoa who invited McLean to visit his settlement; an unidentified man from Wairoa; and a Mohaka chief, Paora Rerepu.¹³ McLean wrote that he found it very satisfying for the chiefs to be coming in from such distances to offer him land and promised himself 'to watch over their interests as if they were mine' at all times.¹⁴

With a view to extending the coastal frontage of the Ahuriri block further north, McLean travelled to Mohaka. He intended going on from there to Turanga to give the people at Ahuriri time to save their wheat crops before purchasing the land (and by doing so, perhaps avoid reserving a cultivation). He also wanted to acquire information for the Government respecting the Maori people in the Turanganui area, some of whom were interested in the negotiations in which he was engaged.¹⁵

8. J G Wilson, *The History of Hawke's Bay*, Christchurch, Capper Press, 1976, p 144

9. Claim Wai 201 record of documents, doc A22, p 25

10. *Ibid*, pp 27-31

11. See my report 'Wairoa ki Wairarapa, part one', claim Wai 201 record of documents, doc A22

12. Waitangi Tribunal, *The Mohaka River Report 1992*, Wellington, Brooker and Friend Ltd, 1992, p 24

13. McLean's journal entries, 28 December 1850; 7, 18 January 1851, ATL

14. *Ibid*, 7 January 1851

15. AJHR, 1862, C-1, no 3

McLean arrived at Wairoa on 29 January 1851. In his journal he described the land on both banks of the river as 'rich and fertile' and later, as 'well suited for pasture and agriculture'. He found the Wairoa Maori in favour of selling but because of 'the numerous tribes on the river', he estimated the people at 2000, he wanted to purchase only one side of the river, 'for some years at least'. His reason for this, however, was not only to leave sufficient land for Maori, but to also minimise potential problems between Maori and the settlers, 'as our cattle and sheep would destroy their crops, and create a fertile source of trouble'. In order to avoid future difficulties he informed the people there of his intention to purchase only one side of the Wairoa River and ascertained that the southern bank could 'be easily purchased'. He promised to discuss the subject further on his way back from Turanga, for which he left a couple of days later.

On his return, a month later, McLean travelled via the coast and Te Mahia, where he met Ihaka Whaanga for the first time. At Nuhaka, he was met by Te Matenga, one of the chiefs of that place, who offered to sell a large tract of country, extending from the coast line at Nuhaka to Waikokopu, then inland towards Turanga. McLean informed the people at Wairoa that because of other commitments it would be some time before any purchases could be concluded in the Wairoa district.¹⁶ His first priority was the blocks further south.

2.3 THE CROWN PURCHASES

In the event, it was to be 13 years before McLean returned to purchase land in the Wairoa area. In that time there had been big changes in the whole colony. The continuing practice of selling land was resulting in a shift in power from the chiefs to the colonists. These chiefs were beginning to see the need for a movement to resist further land sales in order to protect their mana and the culture based on the land. For some this meant the King movement, for others the runanga system of self-Government.¹⁷

Whichever movement they supported, both were opposed by the settlers who were determined to enforce substantive sovereignty over the Maori. Maori opposition to further land alienation was seen as a challenge to the extension of the Colonial Government's authority and sovereignty. This was both unacceptable and intolerable to the British and ultimately led to the Taranaki and Waikato wars.

The end of those wars saw the implementation of confiscation legislation and the rise of Pai Marire.¹⁸ Support for the King movement did not always guarantee support for Pai Marire; in the later wars, Kingites or ex-Kingites fought both for and against Pai Marire. Before the war in the Waikato there had been general sympathy if not outright support for the King movement amongst Ngati Kahungunu. Following the war, G S Whitmore was reporting a shifting of alliances amongst the Wairoa chiefs. Pitiera Kopu, who had previously supported the King movement,

16. McLean's journal entries, 29, 31 January, 4 March 1851, ATL; AJHR, 1862, C-1, no 4

17. See 'Hawke's Bay Report', claim Wai 201 record of documents, doc A33

18. See my report, *Raupatu in Hawke's Bay*, Waitangi Tribunal Research Series, 1993, for a discussion on both of these

albeit reluctantly, now said he was a 'Queen man'. Even 'big Henare (Te Apatere) had recanted' before he died.¹⁹

Opposite political camps developed along the lines of land-selling and anti-land selling. Generally, the land sellers supported the Queen and those who refused to sell later became Pai Marire disciples. This division further broke down into coastal hapu who benefited, in terms of mana and income, from Pakeha trade and Government support, and those, mostly inland hapu, who resisted Pakeha settlement.

In 1863 the Te Reinga hapu fined D Munn of Napier and George Williams for passing through the 'King's land'. They got off lightly, with the threat that the next trespasser would be killed. In response to the perceived danger of Pai Marire, a stockade was erected near the mouth of the Mohaka River, in January 1864. In June 1864, Te Waru Tamatea of Marumaru, who had fought at the battle of Orakau in the Waikato, called a meeting at Mangaaruhe, 'to take action against the Pakehas' but the meeting ended without any decision being made.²⁰

In an effort to ascertain the attitude of these and other northern Hawke's Bay Maori towards Pai Marire, and buy more land for settlement, McLean visited the area in late 1864.²¹ Included in his party was a Mr Fitzgerald, a surveyor and JP from Napier, and James Grindell, a clerk in the Court of the Resident Magistrate. Both were witnesses to the signing of McLean's purchase deeds. Grindell also provided a report of McLean's activities in the *Hawke's Bay Herald*.

2.4 THE MAHIA PURCHASE

Arriving at Mahia on 17 October 1864, McLean visited Ihaka Whaanga. Whaanga was born probably in the late eighteenth century. He was the youngest and only survivor of six sons of Te Ratau of Ngati Rakaipaaka and Kainga.²² McLean had first encountered him in 1851 and seemed to have been favourable impressed. He had described him then as 'the principal Chief' of Te Mahia and 'rather a decent, well dressed man'.²³ In 1864 Whaanga was a native assessor, a position with responsibility for law enforcement and some of the duties of a resident magistrate. Grindell described him as 'a staunch supporter of the Government'.²⁴

McLean's arrival was apparently unexpected because Grindell reported that the approach of their steamer threw the people into a panic. They thought it was soldiers, or worse, the Waikato tribes arriving:

Ihaka alone, amidst the general confusion, was calm and collected – declaring that he did not fear soldiers, as he was conscious he had never given the Government cause

19. AJHR, 1864, E-3, no 17, encl 1

20. Lambert, pp 484, 486

21. Ibid, p 486

22. *The People of Many Peaks: The Maori Biographies for The Dictionary of New Zealand Biography*, Wellington, Internal Affairs, 1991, vol 1, p 355

23. McLean's journal entries, 28 February and 1 March 1851, ATL

24. Article by James Grindell, *Hawke's Bay Herald*, 12 November 1864, MA 1, 5/13/92, doc bank 2, NA Wellington

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of offence; and, as for Waikatos, they were too much occupied to trouble themselves about him.²⁵

Two days were spent discussing the purchase of Mahia while McLean waited for the arrival of others with an interest in the land. On 20 October 1864, 'a large number of natives' met with McLean and as a result of the meeting the deed for Mahia was signed. Grindell does not provide much more detail on the negotiations. The purchase price was £2000, of which £1500 was paid at the time, the remaining £500 was to be paid on completion of the survey. The block was estimated at 16,000 acres, giving a price of around 2s 6d per acre, with McLean promising that if the block should be found to exceed 16,000 acres, a further payment would be made in proportion to the excess. There was no suggestion that there was to be any deduction in the purchase price if the area turned out to be less than 16,000 acres. In fact, it turned out to be only 14,600 acres.²⁶

The deed was signed by Ihaka Whaanga and 16 others. It was witnessed by M Fitzgerald JP, James Grindell, and three others.

A mahinga ika was reserved at Kinikini, below Taupiri hill.²⁷ This reserve, of 115 acres, was investigated by the Native Land Court on 21 September 1868 and, with no objectors appearing, a certificate of title was ordered to issue to Ihaka Whaanga alone.²⁸ In 1948 the reserve was listed as sold since 1909.²⁹

The benefit as far as the sellers were concerned was the security and opportunity for trade and employment they would acquire by having Europeans residing amongst them. For the buyer, the purchase of Mahia was considered as the 'keystone of the district'. It was expected to open up the way for much larger purchases, which it did.³⁰

2.5 THE NUHAKA PURCHASE

Leaving Mahia, McLean and his party travelled on to Nuhaka. They were accompanied by Ihaka Whaanga and Tamihana Taruke, his father-in-law, and several others. According to Grindell, 'Ihaka himself was greatly elated at the idea of escorting officers of the Queen to the Wairoa to purchase land in opposition to the policy of the King party'.³¹

At Nuhaka, they were met by Matenga Tukareaho and his people. Matenga had been instrumental in the death of Ihaka's father, Te Ratau, several years earlier. He 'expressed himself strongly in favour of selling land'. He and his young men, he said:

25. Ibid

26. AJHR 1948, G-5, p 8

27. MA-MLP, 6/3, deed no 157, pp 42-43

28. Maori Land Court Wairoa, minute book, no 1, pp 71-72

29. 'Correspondence and notes', Royal Commission of Inquiry into the Mahia Block, MA series 94/3

30. Grindell, *Hawke's Bay Herald*, 12 November 1864

31. Ibid

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were desirous of declaring themselves on the side of the Government and were anxious that Europeans should come and settle amongst them, that, therefore, he had decided upon selling some land for that purpose.

The Mahia was gone and the Wairoa was to follow:

there would then be Government land on both sides of them, and whether they turned to [the] right side or the left, they would see the power and the influence of the Queen.

Several others spoke, 'but the tenor of their speeches was in favour of selling land'.³²

Grindell reported that the only opponents of an immediate sale were Ihaka and his party, which seems strange when compared to his statement above. It is possible that Grindell over-estimated Ihaka's willingness to sell, however Ihaka's opposition probably had more to do with his rivalry with Te Matenga than an aversion to selling land:

he was very naturally somewhat jealous of Te Matenga taking the matter entirely into his own hands and anxious to show his acquiescence was necessary before any purchase could be effected. The feeling was, no doubt, strengthened by the ancient feuds existing between the two parties, which originated in the murder of Te Ratau – Ihaka's father. In addressing the people he, Ihaka, said that there was no necessity for precipitating matters, that, in the meantime, Mr McLean's destination was the Wairoa; and that if they were anxious to sell, the land would be sold in due time, but that at present he would withhold his assent.³³

The result of the meeting was that a small block of land was offered for sale. McLean agreed to purchase the block, leaving the price to be decided after a surveyor had gone over the ground, telling them at the same time that if they wanted European settlers amongst them they would have to part with a sufficient quantity of land for that purpose.

McLean also promised to spend £100 on building a road from Nuhaka to the Mahia beach, to be built by the Maori themselves:

They were excessively delighted in the prospect of getting this road made and loudly expressed their satisfaction and appreciation of the advantages likely to result to them from the settlement of Europeans amongst them – declaring that the Kingi would never have done so much for them.³⁴

The party left Nuhaka on 25 October to continue on to Wairoa. On reaching Wairoa they were joined the next day by a messenger from Nuhaka. The messenger had been sent to tell McLean that the Nuhaka people had decided to sell a large portion of their land, extending from Nuhaka River northwards many miles; all that was necessary to remove all difficulties to the sale was the assent of Ihaka and his party. Ihaka and his party, finding that Matenga and the people resident on the land

32. Grindell, *Hawke's Bay Herald*, 19 November 1864

33. *Ibid*

34. *Ibid*

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were bent on selling, had no option but to give their consent to the sale. 'They wished Mr McLean to consider that the land was now handed over to the Government'. McLean once again agreed to buy the land and said he would send a surveyor to survey it and that the terms of the sale would be decided on its completion.

The boundaries were then given and written down. Going by the messenger's account, the block was estimated to contain 256,000 acres (this was later shown to be wildly over-estimated). The country generally consisted of undulating hills covered with a vegetation of grass and fern, well suited for sheep runs. A portion of it was leased to a Mr Riddell.³⁵

The purchase of this block on the north bank of the Nuhaka River was completed by Samuel Locke on 16 March 1865. The meeting to finalise the purchase took place on the second day after his arrival at Nuhaka, in order 'to give time for the owners to come'. He described the meeting as well attended, and after talking for a day and a half it was finally settled that the Government should buy the block for £3300, of which £2200 was paid on the day.³⁶ The sellers numbered 94, including Paora Apatu, Matenga Tukareaho and Ihaka Whaanga of Rakaipaaka. According to Locke, the Nuhaka people were 'perfectly satisfied' with the sale, as he had 'not heard one complaint', even though he reported they tried to get £10,000 for the block. The rest of the purchase money, £1100, was paid on 30 March 1866 to Ihaka Whaanga, Paora Apatu and Hamuera Whaanga.³⁷

This deed, as well as the Mahia deed, was clearly modelled on earlier McLean deeds. The section in both deeds bidding farewell to the land and describing in general terms what was being sold is as follows:

Heoi kua oti i a matou te hurihuri te mihi te poroporoaki te tino tuku rawa atu i tenei kainga o o matou tupuna tuku iho kia matou, me ona awa me ona wai, me ona roto, me ona ngaherehere me ona hiwi, me ona parae, me ona wahi atahua, me ona wahi kino, me ona tarutaru, me ona rakau me ona pohatu me ona mea katoa kei runga ranei o te whenua kei raro ranei o te whenua, me ona aha noa iho o taua wheuna, kua oti i a matou te tino tuku rawa atu i tenei re e whiti mei kei whenua pumau tona iho kia Wikitoria Te Kuini o Ingarangi ki nga kingi kuini ranei o muri iho i a ia ake tonu atu.³⁸

A 1903 translation, translated this as:

Now we have fully considered wept over finally bid farewell to and entirely given up this piece of land inherited by us from our ancestors with its rivers waters lakes forests hills plains good places and bad, herbage, trees, stones and everything above or below the soil everything connected with the said land we have entirely given up under the shining sun of this day as a lasting possession to Victoria the Queen of England and to all the Kings and Queens her successors for ever.³⁹

35. An 1864 return noted R and W Riddell leasing 12,000 acres at Waikokopu, near Mahia, as a sheep run. No amount of the rent being paid is recorded but a 15,000 acre sheep run at Wairoa, leased by Hamlin and Stopford, was paying £220 per annum, AJHR, 1864, E-10.

36. Samuel Locke to McLean, 21 March 1865, McLean Papers, MS 32, folder 393; MA-MLP, 6/3, deed 147, p 83

37. Ibid, deed 148, p 86

38. MA-MLP, 6/3, pp 42, 83

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The wording of the lament and farewell was similar to that in the 1851 Waipukurau deed and was a standard clause in these Crown purchases.⁴⁰

The map attached to the deed estimated the land to be about 120,000 acres, which would give a price of 6¾ pence per acre. In May 1865 the block was gazetted as 10,000 acres but then the gazette notice only listed the land that lay in the province of Hawke's Bay, south of the 39th parallel.⁴¹ The Hawke's Bay Provincial Council Votes and Proceedings 1865 explained that 110,000 acres of the Nuhaka Block was in the Auckland Province. In the *Hawke's Bay Herald* of 8 July 1865 an editorial comment gave the area of the block as 100,000 acres. A later gazette listed all the land in both the Auckland and Hawke's Bay provinces, without giving the acreage. The boundaries in this notice matched those in the deed, although some of the spelling was wrong.⁴²

Although there were no reserves set out in the deed, on 21 March 1865 Locke wrote to McLean:

In settling for the Nuhaka block it was thoroughly understood between Ihaka Waanga and myself that he should be allowed to purchase about six hundred acres for himself at the upset price at Waikokopu.⁴³

In 1880 a return listed Waikokopu, at Nuhaka, 693 acres and 37 perches for the chief Ihaka Whaanga, even though Ihaka had died in 1875.⁴⁴ According to Ballara and Scott, a dispute over whether this block was intended as a reserve for all the owners of the Nuhaka block, or simply for Ihaka Whaanga, was to occupy the attention of Rakaipaaka and Government officials for many years.⁴⁵

2.6 LAND PURCHASED AT WAIROA

Reaching Wairoa on 25 October 1864, McLean's party found Pitiera Kopu and Ngati Kurupakiaka assembled at Te Uhi, on the north bank of the river. They appeared to be in favour of selling, even though 'until very lately [they had] been professedly adverse to selling'.⁴⁶ Despite this, the negotiations for land at Wairoa turned out to be lengthy and some what tedious and in the end the land had to be purchased in two blocks.

On 27 October McLean and his party met with a large number of Wairoa people at Paora te Apatu's residence at Waihirere. Paora te Apatu, mindful of McLean's desire to acquire land on the river, and pointing out to McLean its fertility and the superior character of the country, asked for £10,000. McLean was reluctant to pay

39. Ibid

40. For example, see the Wairoa deeds

41. *New Zealand Gazette*, 1865, p 161

42. *New Zealand Gazette*, 1875, p 369

43. Samuel Locke to McLean, 21 March 1865, McLean Papers, MS 32, folder 393

44. AJHR, 1880, G-3B, p 3

45. See Angela Ballara and Gary Scott, 'Crown Purchases of Maori Land in Early Provincial Hawke's Bay', claimants' report to the Waitangi Tribunal, 1994, pp 19-47, re Nuhaka

46. Grindell, *Hawke's Bay Herald*, 19 November 1864

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this much, reminding the people assembled that the value came from the land being 'properly made use of'. He wanted to wait until the land had been surveyed before agreeing on a price, at the same time telling the people, once again, that if they wanted English settlers, they would have to give sufficient land. Fitzgerald was dispatched to examine the block and in the meantime McLean arranged to meet with the Kahu tribe. The Kahu people had important claims to the lower portion of the river and without their consent the block offered for sale included only a small portion of the river frontage, all the deep water frontage and the choicest part of the land lying along the south bank being excluded.

McLean met with them on the morning of 29 October. For this 'choice spot' they demanded the modest sum of £30,000. McLean, baulking at such a sum, pointed out that the block in question, while possessing many advantages, such as river frontage, was only about 800 to 1000 acres and offered them £800. They laughed at this offer, declaring the land was 'the gem of the Wairoa', and the negotiations continued.⁴⁷

While McLean negotiated with the Kahu people he purchased the lower Wairoa block on 31 October 1864 from Pitiera Kopu, Tamihana Te Rautahi, Paora te Apatu and Hiporakau. These chiefs had become tired of waiting while the negotiations dragged on and believed that the conclusion of their business would accelerate the purchase of the rest.⁴⁸ The purchase price for 3570 acres on the south bank of the Wairoa River was £1000. This block included the Whakamahi Lagoon, part of an extensive wetland that was an important mahinga kai. In 1851, McLean had described the lagoon as 'of considerable size and almost the only one where eels are numerous in this neighbourhood'.⁴⁹

No reserves were set out in the deed but the map attached marked out Kopu's reserve.⁵⁰

Two days after the signing of the lower Wairoa deed, McLean concluded the purchase of the upper Wairoa block. Finding that there was no chance of obtaining the river frontage for the amount offered, McLean agreed to pay £1200.⁵¹ Of that, £700 was paid on the day, the balance of £500 was to be paid in Napier. This purchase, adjoining the northern boundary of the lower Wairoa block completed the sale of all the land on the south bank between the first bend in the Wairoa River and the coast to a point a few miles south-west from the river mouth, on which the township is now based. The signatories were Pitiera Kopu, Hamana Tiakiwai, Tiopira Kaukau, Apirana Te Whenuariri, Maihe Kaimoana, Paora te Apatu, Pakuku, and Paraone.

Once again no reserves were set out in the deed, however two reserves, Orere (28 acres 2 roods) and Te Pouhatu (71 acres 3 roods) were marked on an attached plan, as was a grave site that was included in the area purchased.⁵²

47. Grindell, *Hawke's Bay Herald*, 26 November 1864; Lambert, pp 401-402

48. *Ibid*

49. McLean's journal entry, 1 March 1851, ATL

50. MA-MLP, 6/3, deed no 140, p 204

51. Grindell, *Hawke's Bay Herald*, 26 November 1864

52. *Ibid*, deed no 139, pp 205-206; Ballara, 'Wairoa', p 14

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According to Ballara and Scott, the obvious value of the land for agriculture, as a site for a township, the value of the river, river mouth and lagoon as food sources, and the value of the river as a navigable supply route, made the land attractive and its resale value high.⁵³ In the light of that, the Tribunal may have to decide whether £2200 for 4570 acres, a cost of a little over nine shillings an acre, was a fair price. When compared to the other purchases around it, for example, Mahia, 16,000 acres for £2000 and Nuhaka, 120,000 acres for £3300, it may seem to have been one of the fairer purchases. However, on the first sale alone, of the town and suburban sections, the Crown realised £3711. At the second sale quarter-acre sections went for £5 to £9 each, while suburban lands ranged from £23 for 7 acres to £60 for 30 acres.⁵⁴

2.7 THE WAIHUA PURCHASE

Moving south from Wairoa on 3 November, McLean and his party met with Paora Rerepu and others at Waihua. The area of land from the Waihua River, south of Wairoa, to Tangoio and inland to the upper Mohaka River, was dominated by the major hapu, Ngati Pahauwera. They were the intermarried descendants of many early pre-Kahungunu ancestors as well as later migrants.⁵⁵ Minor hapu associated with Ngati Pahauwera in the Waihua River area were Ngati Kapukapu, Ngati Te Rangihaerekau and Ngati Hinekete or Hinekino.⁵⁶ Paora Rerepu was recognised as their chief. He offered for sale a block of land on the north bank of the Waihua River.

This offer for sale had 'the unanimous consent of all Englishmen'.⁵⁷ Thomson questions the use of this term. He suggests this term could have meant that all the Pakeha were happy with the offer but not all the Maori present.⁵⁸ Probably, it just meant the 'approval' of all the Englishmen present, McLean included.

The Waihua block was estimated to contain about 12,000 acres for which McLean offered only £800, on the basis that the inland portion of it was 'somewhat rough'. The sellers, however, were dissatisfied with this sum so McLean, in his usual manner, promised that if after surveying the block, it should be found to exceed 12,000 acres, something more would be paid.⁵⁹ After the survey was carried out by Fitzgerald, the area was found to be 14,000 acres so the initial price was raised to £1000.⁶⁰

53. Ballara and Scott, 'Crown Purchases', 'Wairoa', p 94

54. J G Wilson, *The History of Hawke's Bay*, Christchurch, Capper Press, 1976, p 431. A further sale of town lands, with the Turoa reserves, was advertised on 29 March 1866.

55. Angela Ballara, 'The Origins of Ngati Kahungunu', Phd thesis, Victoria University of Wellington, 1991, pp 94, 183

56. *Ibid*, p 183

57. Grindell, *Hawke's Bay Herald*, 26 November 1864

58. George Thomson, 'The Crown and Ngati Pahauwera from 1864', claim Wai 119/201 record of documents, doc A29:10

59. Grindell, *Hawke's Bay Herald*, 26 November 1864

60. Thomson, p 11

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Samuel Locke completed the purchase of this block on 7 March 1865. By this time, the block was 21,000 acres and the purchase price £1250.⁶¹ Locke wrote to McLean that the extra £250 was for 'about seven thousand acres not included in Mr Fitzgerald's survey at the head of the Waihua which includes some good totara'.⁶² There were 72 Maori signatories including Paora Rerepu.⁶³

A reserve of about two acres was made for Toha of Wairoa, at a place called Tarere, an old native cultivation in the valley.⁶⁴

Thomson claims these land sales were a demonstration of 'loyalty'. The meetings were marked as much by Maori declarations of support for the Government, as by land selling. The land sales not only 'opened up' the area for settlement but committed the sellers to the Government. It was this commitment that McLean sought as much as the land.⁶⁵ Ballara too, maintains that the sale of land was mixed up with loyalty or otherwise to the Queen.⁶⁶

Locke himself admitted as much; in his 'Reminiscences of the Wairoa' he described the purpose of these purchases:

Those purchases, as will be shown in the sequel, tendered much towards the safety of this Province; through giving the Government a hold on that end of the district, by which means we were enabled to occupy the country for defensive and other purposes, without reference to the native population.⁶⁷

After describing the satisfactory purchase of the land, he went on to say:

Now comes the most difficult part, the *finale* [sic] of what I had been working at, namely, the organisation of all the natives of that end of the Province, into a strong, loyal party, making the Wairoa the centre. By which means the Government trusted to save the settled portions of the district from becoming another Taranaki.⁶⁸

As Ballara says, probably Ihaka Whaanga, Pitiera Kopu and some of the other Wairoa chiefs:

did choose their side at least partly out of loyalty to the Queen, and possibly their Christian belief caused them to reject elements of the Pai Marire faith out of conviction. But it is also likely that they saw early where their interests lay, and chose their side accordingly.⁶⁹

They may have had no choice but to be loyal; as time progressed the actions of the Crown made it increasingly difficult to stay neutral.

These land sales also came after the introduction of the New Zealand Settlements Act 1863, and some Wairoa people at least appear to have been aware of its

61. Locke to McLean, 7 March 1865, McLean Papers, MS 32, folder 393

62. Ibid, 21 March 1865

63. MA-MLP, 6/3, deed no 151, pp 189-191

64. Grindell, *Hawke's Bay Herald*, 26 November 1864

65. Thomson, pp 8, 14

66. Ballara and Scott, 'Crown Purchases', pp 131-133

67. Transcript of McLean papers, copy held by the Hawke's Bay Museum, p 1

68. Ibid, p 2

69. Ballara and Scott, 'Crown Purchases', p 139

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provisions. When Major Whitmore, the civil commissioner for the district, visited Wairoa in January 1864, he was asked if he was 'going to seize land at the Wairoa for my policemen? (Col Defence Force)'.⁷⁰ He reported that he believed the whole Ngati Kahungunu tribe could be kept on the side of the Europeans 'partly through their run leases, partly through their old feuds with the Waikatos, and partly by fear of losing their land'.⁷¹

After a major confrontation between Kupapa and Pai Marire supporters in April 1865 at Wairoa, in which a lot of shots were fired but no one was injured, and the Pai Marire chose to retreat, more land was purchased.⁷²

2.8 FURTHER CROWN PURCHASES

On 7 March 1865, Locke had written to McLean from Mohaka that he intended returning to Wairoa, after finalising the Nuhaka purchase, 'to survey a block that Paul Apatu, Kopu and Kohere have offered'. Later in the month he paid an advance of £70 to Paora Apatu on 'the land about Turiroa', which Kopu and Paora had offered him. On 25 April, following the confrontation with the Pai Marire supporters, he reported that:

the people are anxious that I should commence surveying the Turiroa block at once. They offered it all including the bush. They are anxious to have an European settlement there.

By 7 June, he was surveying the Turiroa block.⁷³

2.9 WAIROA AND TURIROA

On 15 July 1865, Locke paid Maraki Kohea, Tamati Te Koari, Koteo Nira and Kohere Nira £300 for their interests in Wairoa and Turiroa.⁷⁴ According to Ballara and Scott, this handwritten deed was the preliminary to the purchase of a 20,000-acre block, the final payment for which was on 19 July 1867.⁷⁵ While technically it may have been preliminary to the purchase of the Turiroa block, this payment was for the 'Claims of certain Natives to the Wairoa and Turiroa Blocks', rather than for the block itself.⁷⁶ The people in this deed are not the same people as in the other Turiroa deed. Also, this deed does not have the standard clause such as 'the boundary of the said land now sold', instead it says the 'extinguishment of all our claims to the undermentioned lands'. It then lists a group of names following with 'and other lands adjoining these lands'. If they are meant to be boundaries then it

70. AJHR, 1864, E-3, no 17, encl 1

71. Ibid, no 17, encl 2

72. Locke, 'Reminiscences of the Wairoa', McLean Papers, p 12

73. Locke to McLean, McLean Papers, MS 32, folder 393

74. MA-MLP, 6/3, deed no 141, p 207

75. See Ballara, 'Wairoa', p 14

76. Deed no 141, DOSLI Wellington

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was an unusual way of writing them and they bear little relation to the boundaries in the Turiroa deed. Finally the payment for the Turiroa block proper was on 19 July 1865, not 1867 as claimed by Ballara and Scott. It was not a second or final payment; it was a completely separate one. Possibly, McLean's habit of not ascertaining all the people with rights in a block made this payment necessary.

2.10 TURIROA

The deed dated 19 July 1865 was signed by Locke, Pitiera Kopu, Karaitiana, Kerei, Hare, Hamuera, Raharuhi, Raihanaia, Hapuroa and Paora Apatu. The sum of £2600 was paid on the day.⁷⁷ There is no mention in this deed of any other payments made, including the £70 Locke claimed to have paid to Paroa Apatu.⁷⁸ The Hawke's Bay Provincial Council Votes and Proceedings 1865 noted the payments in cash for this block as £2570, but then it noted the price expressed in the deed as £2500. In other words, it recognised the £70 paid by Locke, but got the sum paid on the day wrong.

Native title to this block was extinguished by gazette notice in February 1866, which tends to substantiate the point that a final payment was not made in 1867.⁷⁹ The block was gazetted as 15,000 acres, which makes a purchase price of 3s 5¾d per acre.

2.11 POTUTU BLOCK

The same *Gazette* notice also advertised the extinguishment of native title to the Potutu (or Pututu) block of 4000 acres.⁸⁰ This block was surrounded by the lower Wairoa block on its east side, the Turiroa block on its northern boundary and the Waihua block on its western boundary.⁸¹

This may have been the block Grindell was referring to in 1864 when he mentioned that prior to their departure from Wairoa, another block was offered to McLean by Hipora, a sister of Paora te Apatu. This block was apparently situated between the Wairoa and Waihua blocks, north of the Waihua valley. He described it as a 'larger block than the first block sold (of seven thousand acres) and a sum of a thousand pounds was asked for it'. McLean agreed to accept it, leaving the price to be determined after Fitzgerald had surveyed it.⁸²

Of course it could just as easily have been the Turiroa block he was describing, but Hipora is not listed as having signed that deed and Locke identifies the Turiroa block with Paora, not Hipora. He also appears to be reporting the offer of the Turiroa block for the first time on 7 March 1865.⁸³ I am unable to verify who signed

77. MA-MLP, 6/3, deed no 142, p 180-181; and DOSLI Wellington

78. Locke to McLean, 21 March 1865, McLean Papers

79. *New Zealand Gazette*, 17 February 1866, no 12, p 77

80. *Ibid*

81. See map in MA 1, 5/5/28, NA Wellington

82. Grindell, *Hawke's Bay Herald*, 26 November 1864

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the Potutu deed because I am unable to find a copy of the deed. The block is shown on a Maori Affairs map (MA 1, 5/5/28) and besides the gazette notice extinguishing title, it is listed in the Hawke's Bay Provincial Council Votes and Proceedings 1865 as 2800 acres for £1100.

The Department of Land and Survey Information in Wellington does not have a copy of the deed. They have a deed number for Potutu, number 462, but no deed. What they do have is a copy of the Hawke's Bay Provincial Council Votes and Proceedings 1865 list, with a memorandum attached, dated 11 January 1922, saying:

The title to the land referred to as the Pututu Block cannot be traced but this statement taken from the Acts and Proceedings of the Hawke's Bay Prov Council dated 13th June 1865 is sufficient to establish Crown's right to [the] land.⁸⁴

An exhaustive search in 1921 of the Hawke's Bay deeds failed to find the original deed of purchase relating to the Pututu block.⁸⁵ If no deed of the transaction can be found, then the Tribunal may have to decide if a *Gazette* notice advertising the extinguishment of native title is sufficient. This may be a matter for counsel to consider, whether the burden of proof falls on the Crown to establish title.

Seven blocks of approximately 179,370 acres, were purchased by the Crown between October 1864 and the middle of 1865, for a total cost of £15,118 16s 6d, including survey costs and any extras (see table 2.1).⁸⁶ Reflecting on those purchases, Locke wrote:

more land of an excellent quality has been bought, and nearly all the natives of any consequence have come over to the Government. So that all that is now required is judicious management; and no fear need be held for the safety of the Wairoa district; which, to a great measure . . . is due to the foresight of Mr McLean, in purchasing the land.⁸⁷

Although these purchases took place after the passing of the 1862 Native Land Act, none of these blocks had been passed through the Native Land Court before they were purchased. The purpose of this Act was to set up a system which could decide the question of Maori ownership prior to the sale or leasing of their lands. This system was supposed to avoid the Wi Kingi – Te Teira scenario which had culminated in war at Waitara. But the need for such a system had become evident even before the Waitara war, when during the 1850s the Government's unsatisfactory land purchasing methods had given rise to numerous disputes between Maori regarding land claims. The case of Hawke's Bay and Wairarapa, where claims had had to be settled over and over again, demonstrated the need for some form of action on the part of the Government. The passing of this Act,

83. Locke to McLean, McLean Papers, MS 32, folder 393

84. Deed no 462, DOSLI Wellington

85. Heremia Maehe and 109 others re block of land known as Wahanui Rakautihia, LS 22/2852, petition no 215/20, DOSLI Wellington

86. Hawke's Bay Provincial Council Votes and Proceedings 1865, 13 June 1865

87. 'Reminiscences of the Wairoa', p 12

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Table 2.1: Cost per acre of selected Wairoa blocks, 1864–65. Source: Hawke's Bay Provincial Council Votes and Proceedings 1865.

Name of block	Estimated area (acres)	Price expressed in deed	Payments in cash	Other expenditure	Cost of survey*	Total cost of each block	Cost per acre [†]
Mahia	16,000	£2000	£2379	£260 6s 11d	£80	£2639 6s 11d	3s 3½d
Nuhaka	120,000	£3300	£2630	£23 6s 6d	£210	£3963 6s 6d	7½d
Upper and Lower Wairoa	4570	£2200	£1878 14s	£67 13s	£650	£3096 7s	3s 6½d
Waihua	21,000	£1250	£1256	£102 3s 1d	£140	£1498 3s 1d	1s 5½d
Turiroa	15,000	£2600	£2670	£23 6s 6d	£120	£2813 6s 6d	3s 6½d
Potutu	2800	£1100	£1100	£23 6s 6d	£85	£1208 6s 6d	8s 7½d

* Includes both preliminary surveys and surveys on subdivision for sale.

[†] Cost per acre, inclusive of every expense.

however, did nothing to change that. From the start it was practically a dead-letter. Although some cases were heard in the Kaipara district, the Act had technical defects which needed to be remedied and the war delayed its implementation. It was repealed by the Native Land Act 1865 before it could effectively come into operation in the Wairoa district. Neither was the 1865 Act in effective operation before the Crown pushed ahead with these purchases. In fact, the first Native Land Court sitting at Wairoa was not until 16 February 1867.

Perhaps because it was not in operation, McLean in at least one instance failed to ascertain whether all the right-holders or owners had agreed to the sale of land. This set off a chain reaction resulting in the Government buying more land.

2.12 KOPUAWHARA AND WHANGAWEHI 2

These two Crown purchases were as a result of dissatisfaction over Ihaka Whaanga's sale of the Mahia block to the Crown. While the overall territory was under the mana of Ngati Rakaipaaka, a local hapu sharing rights to Mahia was Ngai (or Ngati) Tu. With the support of Rongowhakaata they offered to sell the Kopuawhara block, on the west end of the Mahia Peninsula, in protest at Ihaka's conduct in ignoring their interest in the Mahia block. But they only wanted to sell that portion on which Ihaka Whaanga had his cultivations, the rest they wanted to reserve 'for themselves and the King or Runanganui'. In other words, they wanted

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to sell Ihaaka out. Ihaaka agreed to the sale on the condition that they sell their rights to Whangawehi. This they refused to do at the time. A couple of weeks later though they again offered the land to Locke, which he refused telling them that:

land without an outlet to the sea was useless that they must give Wangawehi then the government would buy theirs if there were no disputes about it, to which proposition they consented and left.

Nine days later Locke wrote:

The Natives look upon Wangawehi as gone to sea but they wish to have the Ngatitu affair settled first. Ihaka and his party are *very* suspicious of the intentions of Turanga. [Emphasis in original.]⁸⁸

In 1865 a Government return listed that £100 had been paid for 12,000 acres at Kopuawhara, pending survey.⁸⁹ No further payments appear to have been made on this block until 1868. By that time the Native Land Acts were in operation and the Kopuawhara block of 6943 acres had passed through the Native Land Court. On 18 February 1867, with no objectors appearing in court, a certificate of title was ordered to issue to Ihaka Whaanga, Te Teira Toheriri and Ihaka Makahue, with no restrictions on alienation.⁹⁰ Kopuawhara 68N of 6312 acres was then purchased from the same three, by the Crown for £500, on 23 April 1868. Opoutama, of 167 acres, was reserved in the deed.⁹¹ Kaiwaitau, 1371 acres, was exempted from the purchase and was later Crown granted to Ihaka Whaanga, Paora Te Apatu, Hamuera Runga, Ihaka Paea, Te Teira Toheriri and Pirnia Pare.⁹²

On the same day, the Crown completed the purchase of Whangawehi no.2, on the Mahia Peninsula. This was the land granted to Te Wera Hauraki and his Nga Puhi warriors by the local people of Rakaipaaka, Rongomaiwahine, Ngati Hikairo and associated hapu out of gratitude, during the musket wars (see ch 1). A first payment of £250 was made on 7 June 1866. In 1867 the Whangawehi block was subdivided by the Native Land Court into two pieces. Both blocks were claimed by Nga Puhi but no 1 was awarded to Rongomaiwahine with Ihaka Whaanga as one of the grantees. Whangawehi 2 became known as the 'Nga Puhi block'. It lay between the Whangawehi and Wainui Rivers, with the coast as its northern boundary and the Tawapata North block to the south.

Title was ordered to Whangawehi 2 by the court on 19 February 1867, 1112 acres to Paora Te Rangituruturu, Arona Ngawiki, Te Peka, Te Reweti Pakiwaha, Nikorima Tohitete, Te Hapa Te Ngaehe, Matana Puhi, Remi Tirui Ngangaira and Reihana Te Tihi, with no restrictions on alienation.⁹³ The final payment of £350, for a total of £600, was paid by the Crown on 23 April 1868 to the nine grantees.⁹⁴

88. Locke to McLean, 5, 19 and 22 December 1864, McLean Papers, MS 32, folder 393

89. AJHR, 1865, C-2, p 4

90. Ballara, 'Kopuawhara', p 4; Maori Land Court Wairoa, minute book, no 1, pp 8-9

91. MA-MLP, 6/3, deed no 155, p 40

92. Maori Land Court Wairoa, minute book, 19 September 1868, no 1, p 63

93. Ballara, 'Whangawehi', p 2; Wairoa minute book, no 1, p 15

94. MA-MLP, 6/3, deed no 89, pp 217-219; Turton's deeds, deed no 44, pp 553-555

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Whangawehi 1, of 3071 acres, was Crown granted to Te Otene Tangihaere, Te Teira Toheriri, Ihaka Whaanga and Ihaka Kaiweheke and made inalienable except by lease of 21 years. In 1886 it was still in Maori ownership.⁹⁵

Ballara suggests that probably:

the desire of some Nga Puhi to sell had a lot to do with the fact that they were a small group from another region surrounded by a large population of Ngati Kahungunu and others, in whom the imperatives of the new age were overriding the memories of the past. That had nothing to do with the Crown, but a grievance remains if the rights of some non-sellers of Whangawehi no 2 were ignored.⁹⁶

2.13 SOME PRELIMINARY CONCLUSIONS

On the evidence available it is clear that some Wairoa Maori at least, wanted to sell land. They appear to have wanted to attract Europeans to the area, in order to acquire the benefits perceived to go along with them. Long after the southern portion of Hawke's Bay had been settled by Europeans, and even when comparative settlement was established at Mohaka, Wairoa was still fairly isolated. In 1862, the civil commissioner for Hawke's Bay had reported that the Wairoa district was still a little known and neglected area by officials. At that time there was only about 30 squatters renting land on the banks of the Wairoa River.⁹⁷ At one time there had been up to 140 Europeans living at Mahia. As the whaling decreased they moved away.⁹⁸ The desire for Europeans was based on the wish for the skills, trade opportunities, markets and employment that came from having a European population settled amongst them. And possibly with a European population residing amongst them they would have added protection from their traditional enemies, such as the Waikato tribes. These sales came at a time when the Waikato war had just finished and just before the start of the Pai Marire campaigns.

But the sellers would have wanted to control the sale of their land. They may have been compelled, though, into selling more than they wanted to by McLean telling them that if they wanted European settlers, they would have to part with a sufficient quantity of land. In the case of Nuhaka, a 'small block of land', was increased to over 100,000 acres, after McLean had talked to them.

McLean and his officers almost always rejected the Maori vendors' initial asking price and offered very much lower ones, usually on the excuse that unimproved land was of little or no value and that the value came from the land being 'properly made use of'. The initial asking price for Nuhaka had been £10,000, the eventual agreement was £3300. Lower Wairoa had been £10,000, McLean got them down to £1000. For 'the gem of the Wairoa', they had asked £30,000, McLean got it for £1200. He also used the purchase of the lower Wairoa block to push through the purchase of the upper Wairoa.

95. AJHR, 1886, G-15, p 17

96. Ballara, 'Whangawehi', p 5

97. AJHR, 1862, E-9, sec VI, pp 19-20

98. McLean journal entry, 28 February 1851

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It could be argued that Maori did not have to agree to McLean's price but if they genuinely wanted European settlement in the district they did not have much choice. With pre-emption still operating in the Wairoa district, at this time, they could not obtain a fair price where there was no 'free market'. Perhaps for this reason, some Wairoa chiefs looked forward to a system of selling direct to private individuals. McLean's deliberate disparagement of the value of the land, which in the case of the Wairoa blocks was superb, also sits uneasily with the Crown's duty of reasonable protection of Maori interests.

Prices paid to Wairoa Maori were anywhere in the order of six pence an acre to nine shillings an acre. The Crown invariably accrued a considerable profit on resale, while spending very little, at first, on roads, bridges or other improvements. Lambert, in particular, was scathing of the amount spent on public works in 1868, and even as late as 1876. The road to Mahia via Nuhaka, which McLean had promised to spend £100 on, Lambert described as only a 'Native track' in 1876.⁹⁹ All this begs the question of whether Wairoa Maori got the benefits they thought would come with selling land.

One final comment must be made on the practice of purchasing without adequate consultation with all the owners. In at least one instance, Mahia, McLean failed to ascertain whether all the owners had agreed to the sale of land. The dissatisfaction over this led to a bitter dispute, with Rongowhakaata at one stage even threatening:

that if the land were not returned to them, and the money to the government, that they would go back to Turanga and bring a party, and drive the pakeha off the land and the loyal natives with them.¹⁰⁰

In the end they offered more land to the Crown, with Locke pressuring them to give even more.

Throughout 1865, Locke's land-purchasing activities were combined with intelligence gathering on the Pai Marire. In March he reported there was a party of Pai Marire in the Urewera country and for the next few months he kept up a running commentary on their movement. Extra muskets were requested for those considered loyal. The arrival of Pai Marire was the catalyst for civil war on the east coast between June 1865 and October 1866. On 25 December 1865, a kupapa force led by Kopu and Ihaka Whaanga, and aided by Ngati Pahauwera, attacked a section of the upper Wairoa, led by Te Waru Tamatea, at Omaruhakeke Pa, about 12 miles up the Wairoa River. The kupapa force won, due to colonial and Ngati Porou help. Another engagement took place at Te Kopane, on the southern side of Lake Waikaremoana, on 13 January 1866 and was once again, for the kupapa side, successful. The consequences of these battles are discussed in the next chapter.

99. Lambert, pp 407, 412

100. Locke to McLean, 19 December 1864, McLean Papers, MS 32, folder 393

CHAPTER 3

RAUPATU

3.1 THE EAST COAST LAND TITLES INVESTIGATION ACT

In the aftermath of the wars J C Richmond, the Native Minister in 1867, wanted to plant colonies of military settlers or of Ngati Porou and Ngati Kahungunu kupapa among the Pai Marire. McLean, however, was by now sceptical of the effect of confiscation but agreed to a cession of land from the Wairoa and Poverty Bay Maori, which amounted to much the same thing. The land was to be taken under the East Coast Land Titles Investigation Act 1866.¹

This Act and its 1867 amendment Act, provided for the compulsory investigation of titles to all the land between Lottin Point and Lake Waikaremoana by the Native Land Court. All land which the court certified to be the property of 'rebels' would from the date of the certificate be deemed to be lands of the Crown while individual 'loyal' Maori would be issued a Crown grant (s 4, 5). Provision was made for setting apart lands for the use and maintenance of those who had been in rebellion (the New Zealand Settlements Act had made no provision for rebels) (s 6), for selling or leasing forfeited lands (s 8), and for the appropriation of all moneys arising from the sale or disposal of such lands to meet the expenses incurred in suppressing the rebellion (s 9).

The Act appears to have been passed in the context of a long standing dispute between the colonial Ministers and the Governor. The colonial ministers were keen to wrest further power from the Governor especially in Native Affairs, and the wars and confiscations inevitably became part of this power struggle. Under the New Zealand Settlements Act, the Governor had the power to decide how much land was to be confiscated. A particularly bitter dispute developed between Ministers and the Governor in 1864 over many of the crucial details of implementation.² The imperial Government had advised that the Governor was to personally agree to confiscation and to have the power to prevent it unless he was satisfied that it was just and moderate.³ The Ministers insisted on their right to take whatever land they thought was necessary.⁴ Accordingly, Richmond advised the House that the East Coast Land Titles Investigation Act 1866 was passed in order 'to avoid the most vexatious

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1. This chapter has been taken from my report 'Raupatu in Hawke's Bay' (report commissioned by the Waitangi Tribunal, 1993), with some additions. It should be read in conjunction with Vincent O'Malley's, 'Report for the Crown Forestry Rental Trust on the East Coast Confiscation Legislation and its Implementation', report commissioned by the Crown Forestry Rental Trust, 1994.
 2. See AJHR, 1864, E-2, E-2A, E-2C, E3; AJHR, 1865, A-1
 3. Dispatch from Cardwell to Grey, 26 April 1864, AJHR, 1864, E-2
 4. AJHR, 1864, E-2

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part of the New Zealand Settlements Act'.⁵ That is, the confiscation was to be made directly by the House of Representatives, as opposed to the Governor, and only in the case of Maori who had been in rebellion.⁶

The Act was also probably passed with an eye to meeting some of the Imperial Government's concerns about the Government's implementation of confiscation. On the introduction of the New Zealand Settlements Act 1863, the Secretary of State had been alarmed at the extent of territory the colonial ministry was proposing to confiscate and the manner in which it proposed to go about this.⁷ This act was an attempt to partly answer these concerns by confining confiscation to such land as was mentioned in the Schedule.

The Act rested on the assumption that it was possible to identify rebel from loyal. But as Williams says, 'it was one thing to pass the legislation . . . another thing to implement it'.⁸ Biggs, the local military commander and resident magistrate, reported in January 1867:

The claims of loyal and rebel Natives are so mixed up that it is next to impossible to point out a single spot that belongs exclusively to either; and when it is remembered that in the war on the East Coast the nearest relatives were fighting one against the other, it must be evident that the difficulty of separating loyalist from rebels' land will be very great, if indeed to be accomplished at all.⁹

For this purpose a hui was held in Wairoa, in early April 1867, to discuss the cession. At the hui McLean explained the Government wanted a piece of land 'conveniently situated in the midst of the district' for the settlement of the soldiers who had been engaged in the war. Hapimana insisted that the land the Government proposed confiscating belonged mainly to 'Government natives', in particular, himself and Mere Karaka, the wife of Te Kopu. Tamihana Te Huata implored the Government to stop hunting the Pai Marire and cease pressing for land, arguing that if they were prepared to forgive their hauhau relatives, the Government had no cause to interfere further. He thought they were being made to pay twice for the war and pointed out that some of their relatives had either been slain in cold blood, or imprisoned for 'rebellion', and still their land was being confiscated. Richmond ignored their pleas and Biggs was instructed to enter into an arrangement (on behalf of the Crown) with the Wairoa Maori.¹⁰

5. NZPD, 1867, p 693

6. Ibid

7. See J Hippolite, *Raupatu in Hawke's Bay*, p 20

8. David Williams, 'The Use of Law in the Process of Colonization, an Historical and Comparative Study, with Particular Reference to Tanzania (mainland) and to New Zealand', PhD thesis, University of Dar Es Salaam, 1983, p 250

9. Williams, p 250; AJHR 1921-22, G-5, p 14

10. Alan Ward, *A Show of Justice*, p 225; *Wellington Independent*, 20 April 1867 and *Hawke's Bay Herald*, 23 and 27 April 1867 in MA, 24/26 (RDB 89:34375, 34390, 34396)

3.2 WAIROA DEED OF CESSION

On 5 April 1867 by a 'deed of cession', the 'Chiefs and Natives' of the Wairoa district 'agreed' to give up their rights to a block of land lying between the Wairoa and Waiau Rivers, and between the Mangapoiki and Kauhauroa Streams, on the left bank of the Wairoa River. Reserves were to be made to them of a block of approximately 500 acres at Pakowhai and 20 sections of 50 acres each between the the Kauhouroa and Wairoa Rivers. In return the Crown withdrew its claim to rebel interest outside the block ceded. This meant that the block which the Maori 'agreed' to give up (later called the Kauhouroa block) was taken to represent the 'rebel' interests in the whole area, and it was confiscated instead of everyone going through with the Native Land Court hearings to determine title to all the lands.¹¹ The terms 'ceded' and 'confiscated' were used interchangeably but officials were quite clear that the land was confiscated.¹²

A payment of £800 was made to the Wairoa Maori in liquidation of their claims to that block, the Government then became the sole proprietor of the land and native title was completely extinguished (see fig 3). The amount of land retained by the Government was 42,430 acres of which 6888 was to be allocated to military settlers or immigrants; the remaining 35,500 was to be held by the Government and be available for sale. In 1876 it was proposed to lay the confiscated block out in lots of 2000 to 5000 acres and sell them as small sheep runs.¹³

The remainder of the land, lying between the Waiau and Wairoa Rivers and Ruakituri Stream, stretching inland to Lake Waikaremoana, was to be divided into blocks and returned with a Government certificate to the 'loyal chiefs'.¹⁴

It is clear that the Wairoa people must have been pressured into signing the deed. Pitiera Kopu, one of the Government's staunchest allies during the wars, died six days later of pleurisy, after being subjected to much criticism from his iwi for having 'driven the land out to sea'. Lambert claimed his death was hastened no doubt by the 'strenuous time' he had had trying to persuade his iwi to sign.¹⁵

After signing the agreement it was discovered that certain errors had occurred in the 1866 Act. In one of the clauses the word 'include' was used instead of the word 'exclude'. This rendered the 1866 Act inoperative by admitting the land titles of rebel Maori which it was expressly intended to exclude. As well, the boundaries described in the schedule were found to be wrong. Lottin Point had been described as Lottery, and two other places, Haurangi and Purororangi, appeared unknown.¹⁶ An amendment Act was passed in 1867 to tighten up the 1866 schedule and to provide for the agreements which the Government had already entered into.

This deed may have been expedient rather than strictly legal according to the Act. By section 3, the Native Land Court was suppose to inquire into and determine the title to the land, and under section 4, issue a certificate transferring the property of

11. Turton's Deeds, vol 2, p 546; AJHR, 1870, A-16, encl 1, no 9; AJHR, 1872, C-4, no 23, 'Reports on Settlement of Confiscated Lands'; Williams, p 251

12. See for another example Captain Preece, Resident Magistrate, 9 December 1886, MA 1, 1915/2346

13. AJHR, 1871, C-4; AJHR, 1877, C-12

14. AJHR, 1870, A-16, encl 1, no 9; AJHR, 1872, C-4, no 23

15. Lambert, p 409; see also *Hawke's Bay Herald*, 23 April 1867

16. NZPD, 1867, p 924; AJHR, 1867, A-10d

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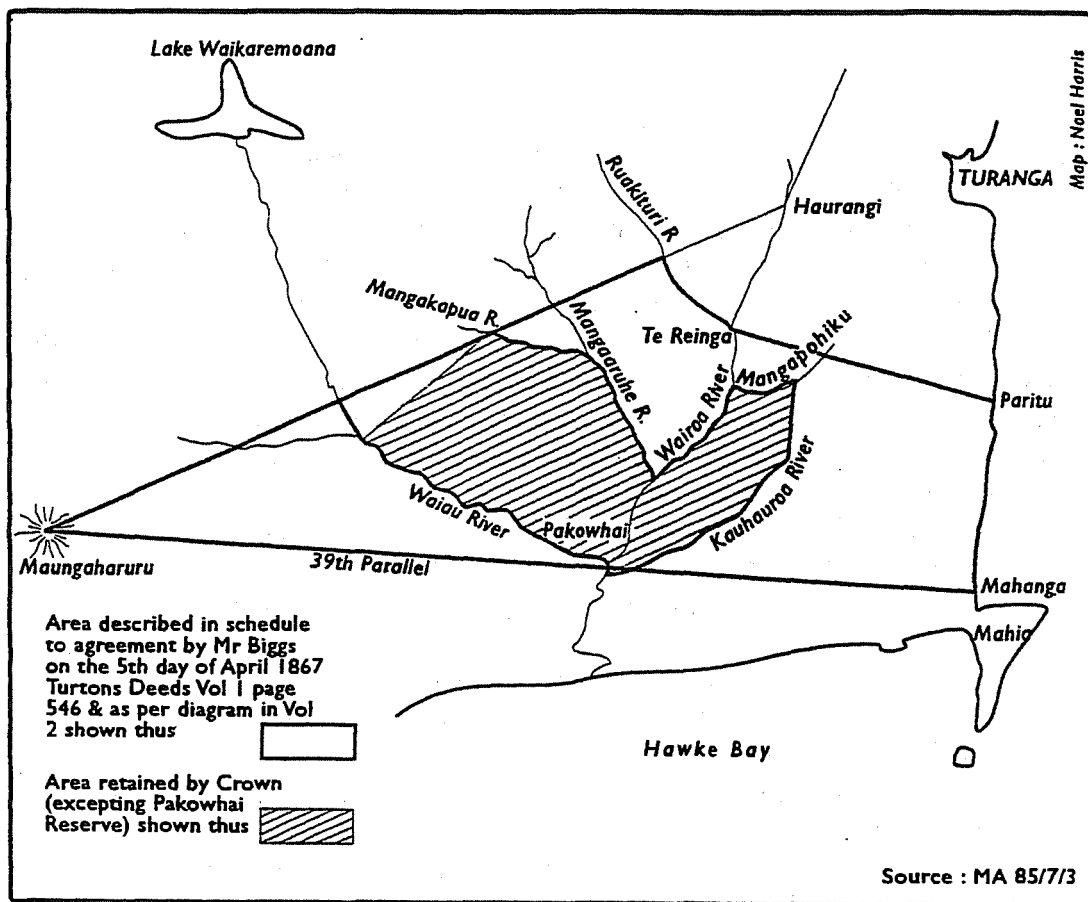


Figure 3: Wairoa cession

persons deemed to be rebels to the Crown. On 17 September 1868, the Wairoa deed of cession was brought before the Native Land Court for confirmation.¹⁷ There is no record in the minute book of the court's decision, but on 18 September Biggs informed the Government that the Wairoa cession had been confirmed by Judge Monro.¹⁸

The 1866 Act and its 1867 amendment were subsequently repealed by the East Coast Act 1868.¹⁹ This Act, while not affecting any agreement entered into under the previous acts, required the Native Land Court to refuse to order a certificate of title in favour of any person who was guilty of any offences mentioned in the fifth section of the New Zealand Settlements Act 1863 (ss 2, 3). In any claim heard, the Court could order that a certificate be issued stating that the land comprised therein belonged to 'rebels' (s 4(3)). Upon the issue of such a certificate the land comprised in it was deemed to be Crown land (s 5). The provisions of this Act do not appear to have been implemented in the Wairoa district. In any event, this legislation still

17. Wairoa minute book 1, p 25

18. O'Malley, p 138

19. For the background to this Act, see O'Malley, pp 102-110.

did not solve the problem of how to distinguish 'loyal'; interests in land from 'rebel'.

3.3 THE RETURN OF TE KOOTI

Before the Government could do anything with the ceded land, Te Kooti and his followers escaped from the Chatham Islands, where they had been held without trial for two years. They arrived back on the mainland in July 1868 and for the next four years the Government hunted them in a series of expeditions across northern Hawke's Bay, the Urewera, Taupo, East Cape and the Bay of Plenty. Te Kooti was hunted until, still eluding capture, he retired into the King Country in 1872. In 1883, he was finally pardoned as part of a Government attempt to open up the King Country by peaceful means.²⁰

3.4 SETTLEMENT OF THE CONFISCATED LAND

With peace restored the Government could now turn its attention to the settlement of the confiscated land, held over since 1867. In 1869 Ihaka Whaanga, Paora Te Apatu, and some of the other Wairoa chiefs, had raised the issue of the arrangements concerning the portion of land in the upper Wairoa to be awarded to them with a Government certificate.²¹ McLean was in complete agreement that a matter that had stood over for so long should be definitely settled without delay, as long as doing so had not been prejudiced by any subsequent act of the Native Land Court or promise by Biggs.²²

With Te Kooti finally gone from the district, the promise of the Government to subdivide the land and decide on the persons to appear in the grants could now be carried out. On 3 August 1872 Samuel Locke met with the Maori at Wairoa. Locke had previously ridden over the country and visited Waikaremoana to ascertain the most suitable boundaries for the blocks which were to be divided and crown-granted. Rivers and streams or other natural features were used as boundaries in order to save the expense of survey, as the land was rough sheep country.

After lengthy discussion the land was divided into four blocks and another agreement was signed by the chiefs on behalf of their people on 6 August. By this agreement the Government kept, besides the Kauhoroa block of the previous arrangement, two other blocks of land. One of approximately 250 acres at Onepoto, the site of a constabulary post on the Waikaremoana Lake, and the other of 50 acres for a proposed road at the crossing of the Waikaretaheke Stream. The four blocks to be returned to the Wairoa Maori were Ruakituri, Taramarama, Tukurangi and Waiiau. The deed of agreement also included the schedule of names to whom each of the four blocks were to be conveyed.

20. See my report (fn 1) pp 32-40 for more on Te Kooti, his motives and his campaigns

21. AJHR, 1870, A-16, no 9, encl 1

22. AJHR, 1870, A-16, no 10

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Once again this may have been expedient rather than strictly legal. As the Crown had waived its claims to those lands, they continued to be held by their customary owners on the basis of native title. In order for the customary-owned lands of 'rebel' Maori to be transferred to 'loyalists', the Native Land Court would have first had to issue a certificate under the East Coast Act stating that the land belonged to rebels and transferring the land to the Crown. The Government would then be able to issue Crown grants to those people who would not be otherwise entitled to them.

Locke concluded his report by saying that:

The settlement of this long outstanding question will be of great benefit to the Wairoa, as settlers will now be able to occupy the country as sheep runs, and all feeling of uncertainty existing in the Native mind removed.²³

However the question was far from settled. In fact, the 1872 agreement was not given effect to. On peace being made with Tuhoe, that tribe submitted a claim to the four blocks in conjunction with Ngati Kahungunu, to whom the land had been returned. Both parties were advised to settle the title to it through the Native Land Court.²⁴ The dispute over the title had the effect of raising bad feelings between the two tribes. In June 1875 Frederick Ormond, the resident magistrate at Wairoa, reported that:

Between the Wairoa and Urewera natives there now exists much mistrust and unfavourable feeling, the chief bone of contention being the division of the confiscated land.²⁵

On 29 October 1875 a meeting was held at Wairoa to discuss the disputed boundary of the land between Ngati Kahungunu and Tuhoe. The Government had originally intended to vest the returned land in trustees 'for the benefit of the friendly tribes', but now wanted to buy the land, with the exception of certain reserves.²⁶ The purchase of this land was intended to contribute to the general safety of the district, by enabling European settlement to extend along the boundary of the territory of the Tuhoe tribes.²⁷ But first the title to it had to be investigated by the Native Land Court. The purpose of the meeting was to settle the dispute prior to the land being brought before the court. It seems that the Government had some concern that Tuhoe, who had no experience with the Native Land Court procedure, might be at a disadvantage, in comparison to Ngati Kahungunu, who had had 'lengthy intercourse with Europeans', and were well 'conversant with the mode of procedure adopted in the investigation of land titles'.²⁸

Both parties claimed rights to the land on ancestral grounds. Tuhoe claimed that their boundary in the direction of the Wairoa approached as far as Mangapapa. Locke recited the boundaries of the land claimed by them as:

23. AJHR, 1872, C-4, no 23; see also AJHR, 187, C-4B

24. AJHR, 1874, G-2, no 14

25. AJHR, 1875, G-1A, no 4

26. See Preece to Under-Secretary, 13 and 16 December 1887, MA, 1/1915/2346

27. Locke to McLean, 29 May 1875, AJHR, 1875, G-1, no 14

28. AJHR, 1876, G-1A

Raupatu

Pakaututu, Mohaka, Tuke-o-te-Ngaru, Paewahie, Ngahaha, Rotokakarangu, Tukitukipapa, Putere, Te Arau, Rotonuihaha, Potikihere, Te Toi, Whirinaki, Waiwhakaata, Puharakeke, Te Paepae, Tukutapa, Tukurangi, Mangapapa, Wharepapa, Whataroa, Erepeti, Tauwharetoro, Te Ihu o Mangatapere, Te Mapara, Puhinui, Waioeke, Whakamaui, Pukenui-o-Raho.²⁹

Ngati Kahungunu, on the other hand claimed their boundary extended beyond Mangapapa across Lake Waikaremoana to the Huiarau Ranges.³⁰ Ruapani, it appears, included themselves under Tuhoe.

The Tuhoe boundaries cited may not have been their exact boundaries but Tuhoe had felt forced into defining them as such. Hori Wharerangi, of Tuhoe and Ruapani, explained that he had defined the boundaries as such because he believed Ngati Kahungunu were fast absorbing all their land, in particular the four blocks in question, Tukurangi, Waiiau, Ruakituri and Taramarama. The meeting deteriorated into a slanging match with each feeling they had to denigrate the other's claim to assert their own. It brought out all the traditional animosity between the two tribes. Locke maintained that:

Had the Government acquired and retained this land before the restoration of peace with the Urewera, no claim of theirs would have ever been heard of to the land in question. The Government were evincing no small consideration for the Urewera Natives in sanctioning at all the investigation of the claim put forth by them, considering the grounds upon which they assert their right, being as they were at the time in rebellion when the land was confiscated and dealt with.³¹

Karaitiana Takamoana, of Ngati Kahungunu ki Heretaunga, accused the Government of trying to intimidate the Maori, 'by telling them that they hold the land, and inducing them to lease it, when really the Government has no power to do so'.³²

Locke denied that the Government was attempting to intimidate them. He insisted that the Government was 'endeavouring to amicably settle the long outstanding dispute between these contending tribes that have been for generations at war'. No compromise could be reached so the meeting was brought to a close with the matter to be placed before the Native Land Court.

The case for Tukurangi, estimated at 37,000 acres, opened on 4 November 1875 at Wairoa under Judge Rogan. At the hearing Tuhoe and Ngati Kahungunu disputed each other's evidence, with each trying to outdo the other in pressing their claim. The judge, unable to make a decision on the evidence, closed the case the next day with the excuse 'no decision to be given till [the] Court has personally viewed the ground'. The same day the case for Ruakituri, estimated at 52,000 acres, was heard, with the court finding that 'the two statements made by the claimants and counter claimants were totally at variance with each other and were exceedingly contradictory' and the case was closed.³³

29. Ibid

30. Ibid

31. Ibid

32. Ibid

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Taramarama and Waiiau opened and closed on 6 November, with the two parties stating that their claims to these blocks were identical to Ruakituri. The court decided that it need not go over the same evidence again and that owing to the conflicting nature of the evidence, a site visit was necessary. No judgment would be given until a proper survey had been made and a duly certified plan presented.³⁴

The adjournment of the cases resulted in a flurry of telegrams to the Native Minister as Locke attempted to redeem the situation. He proposed a compromise that would mean giving Tuhoe up to £2000 and promising them one of the reserves that were to be made. This, he said, would also require giving the same amount to the 'Govt. Natives', on top of the price already agreed for the blocks. Locke thought that this would be the cheaper option in the long run, for to wait any longer would cost more in survey fees. He informed McLean that he had consulted with Rogan, the judge, who had advised him to 'compromise if you possibly can'.³⁵

This must have been agreed to because the court sat again on 12 November at which time Wi Hautarake and Hetaraka te Whakaunui appeared and on behalf of Tuhoe withdrew their claims to the four blocks. They stated that it was not their intention to come into court again and that Tuhoe had 'arranged' their dispute with Ngati Kahungunu. Toha Raurahu, of Ngati Kahungunu, then submitted a list of names for each of the four blocks. How the names were picked is unclear, unless they were the people present that day. The lists bear little resemblance to the 1872 agreement. For example, the names for the Ruakituri block were down from 69, in 1872, to 23, and of these only nine were in the original agreement. Taramarama was 13, from 33, Tukurangi, 10 from 36 and Waiiau, 10 from 37. Memorials of ownership were ordered by the court for those named.³⁶ Then by a deed dated 12 November 1875 Tuhoe and Ruapani were paid £1250 in relinquishment of their claims over the blocks of land.³⁷ Possibly with the land in such dispute, these iwi were willing to settle for some money now rather than risk losing out all together, if judgement should go against them. Six months later, Frederick Ormond reported that:

The Native Land Court, during its sitting here in November last under Judge Rogan, defined the boundary between the Ngatikahungunu and Urewera with perfect satisfaction to both parties.³⁸

Almost immediately following the court hearings Josiah Pratt Hamlin, a land purchase officer, assisted by Locke, purchased the blocks on behalf of the Government for £12,610. The land involved was estimated at this stage to be 157,000 acres. Hamlin explained the division of the money. As well as the £1250 already paid to Tuhoe and Ruapani, £9700 was paid on 17 November 1875 to those awarded memorials of ownership by the Native Land Court. This £9700 comprised

33. Napier Minute Book 4, p 65ff; see also Locke to McLean, telegraph, 6 November 1875 MA 1/1915/2346

34. Napier Minute Book 4, p 65ff

35. Locke to McLean, telegraphs, 7 and 8 November 1875, MA, 1/1915/2346

36. See NMB 4, pp 94-96

37. Auckland deed number 841, DOSLI Wellington; see also J P Hamlin to Ormond, 4 December 1875, AJHR, 1876, G-5, no 5 (encl)

38. Ormond to Under-Secretary, 15 May 1876, AJHR, 1876, G-1, no 36

Raupatu

£2350 for the Waiiau block, £2350 for Tukurangi, £2600 for Ruakituri, and £2400 for Taramarama. The Ruakituri deed was also signed by Eru Kohi Kohi and Wi te Rama, husbands of Ihipera te Kore and Rewai te Koari respectively. Ihipera and Rewai were named in the memorial of ownership but not their husbands. Eru Kohi Kohi also signed the Taramarama deed, along with Ihipera. This would have been because under section 86 of the Native Land Act 1873 a husband had to be a party to the execution of any deed by a married woman and both signatures were necessary.

A further £160 was paid to some of the leading chiefs of Ngati Kahungunu, Tuhoe and Ruapani 'for services performed' in assisting Hamlin to complete the negotiations. As well a sum of £1500 was to be paid to 'the loyal Natives of Wairoa, Mohaka, Nuhaka, and Mahia' as compensation for their interests in the land given to them by the Government in consideration for their services during the war, and in accordance with the agreement at Hatepe in 1867. This was paid on 15 January 1876 to Ihaka Whaanga and 440 others.³⁹

The significance of the purchase of these four blocks of land was noted by J D Ormond, the general Government agent for Napier, to McLean on 9 December:

The purchase is in many respects an important one. It settled a long-standing feud between the Ngatikahungunu and Urewera tribes, who disputed the ownership of these lands. Both parties have now disposed of their interests to the Crown. This is, I believe, the first instance of any sale of land by the Urewera.⁴⁰

McLean, who was now Native Minister, concurred in the opinion expressed by Ormond of the importance of this purchase, one for settling the 'long-standing feud between the Ngatikahungunu and Urewera tribes, who hitherto disputed the ownership of these lands', by both parties disposing of their interest to the Crown. But more important perhaps was that this purchase was the first instance in which Tuhoe had participated in land sales to the Government. It was accepted by the Government as:

evidence of a desire, on the part of that tribe, hitherto bitterly opposed to Europeans, to maintain friendly relations. The fact of their having participated in the purchase money is the best proof they can afford of an intention to live on peaceable terms with the colonists.⁴¹

The following year, on 22 August 1876, he told the House of Representatives:

I may here mention the great change that has come over Native feeling in the interior of that part of the country [the upper Wairoa]. The Urewera, a tribe but a few years ago at deadly feud with us, and who, even after friendly relations were established pertinaciously refused to sell an inch of their lands, were considerable owners in these blocks. With some hesitation they submitted to allow these claims to be adjudicated upon by the Native Land Court; their claims were heard, and they were

39. AJHR, 1876, G-5 no 5; Auckland deeds 837-841, DOSLI Wellington

40. AJHR, 1876, G-5, no 5

41. *Ibid*, no 6

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well satisfied with the result; and yielding to the persuasion of the co-claimants of other tribes, joined in the sale, and received their share of the money.⁴²

Frederick Ormond noted that:

On the strength of the money expected for these lands, nearly every Native ran headlong into debt. Upon division of the money it was not sufficient to cover much more than half of these debts; but as some of these people are in receipt of rents, and others are about selling further blocks, it is to be hoped they will clear them off.⁴³

The total quantity of land acquired by the Government by this purchase, excluding the reserves, was given as 146,080 acres, 'a cost of a fraction under 1s 8³/₄d per acre'.⁴⁴ The lands were proclaimed waste lands of the Crown on 13 August 1877.⁴⁵

3.5 'AMPLE RESERVES'

'Ample reserves' were set apart for the three iwi involved. For Ngati Kahungunu they were: Tukurangi, 3800 acres; Taramarama, 1700 acres; Ruakituri, 2920 acres. Further reserves of 2500 acres were promised for Tuhoe and Ruapani, making a total of 10,920 acres of reserves.⁴⁶ The sites for Kahungunu's reserves were fixed almost immediately and a surveyor engaged straight away to mark them off. Tuhoe's and Ruapani's reserves were supposed to be marked off later in the month of December.

A schedule from Locke, dated 16 August 1877, listed the reserves for Ngati Kahungunu as set out in table 3.1.⁴⁷

In Locke's list, the Makaheha reserve of 500 acres in the Tukurangi block had been crossed out as it had since been purchased by the Government. Hamlin explained that he had been forced to purchase this reserve as it was a portion of a 5000 acre block which the Government had agreed to sell to a Mr Cable. Although the iwi had specifically requested this reserve, on ascertaining its position it was discovered that Cable's homestead stood on that particular spot and according to an agreement between Cable and the Government, Cable was to have 5000 acres adjoining and including his homestead. As the iwi would not take the 500 acres elsewhere Hamlin, after consultation with J D Ormond, had decided to purchase the Makaheha piece for £100. There was no mention of what the iwi had thought of this.⁴⁸

Locke also listed the reserves for Urewera and Ngati Ruapani. These were to be: a 300-acre reserve in the Waiiau block; two reserves in Tukurangi, one of 800 acres

42. AJHR, 1876, G-10; NZPD, 1876, p 505

43. AJHR, 1876, G-1, no 36

44. AJHR, 1876, G-5, no 5 (encl)

45. AJHR, 1878, G-4; *New Zealand Gazette*, 13 September 1877, no 78, p 928

46. AJHR, 1876, G-5, nos 5, 7

47. MA, 1/1915/2346

48. J P Hamlin to Native Department, 6 December 1876, MA, 1/1915/2346; a schedule of the remaining reserves was listed in AJHR, 1886, G-15, p 11

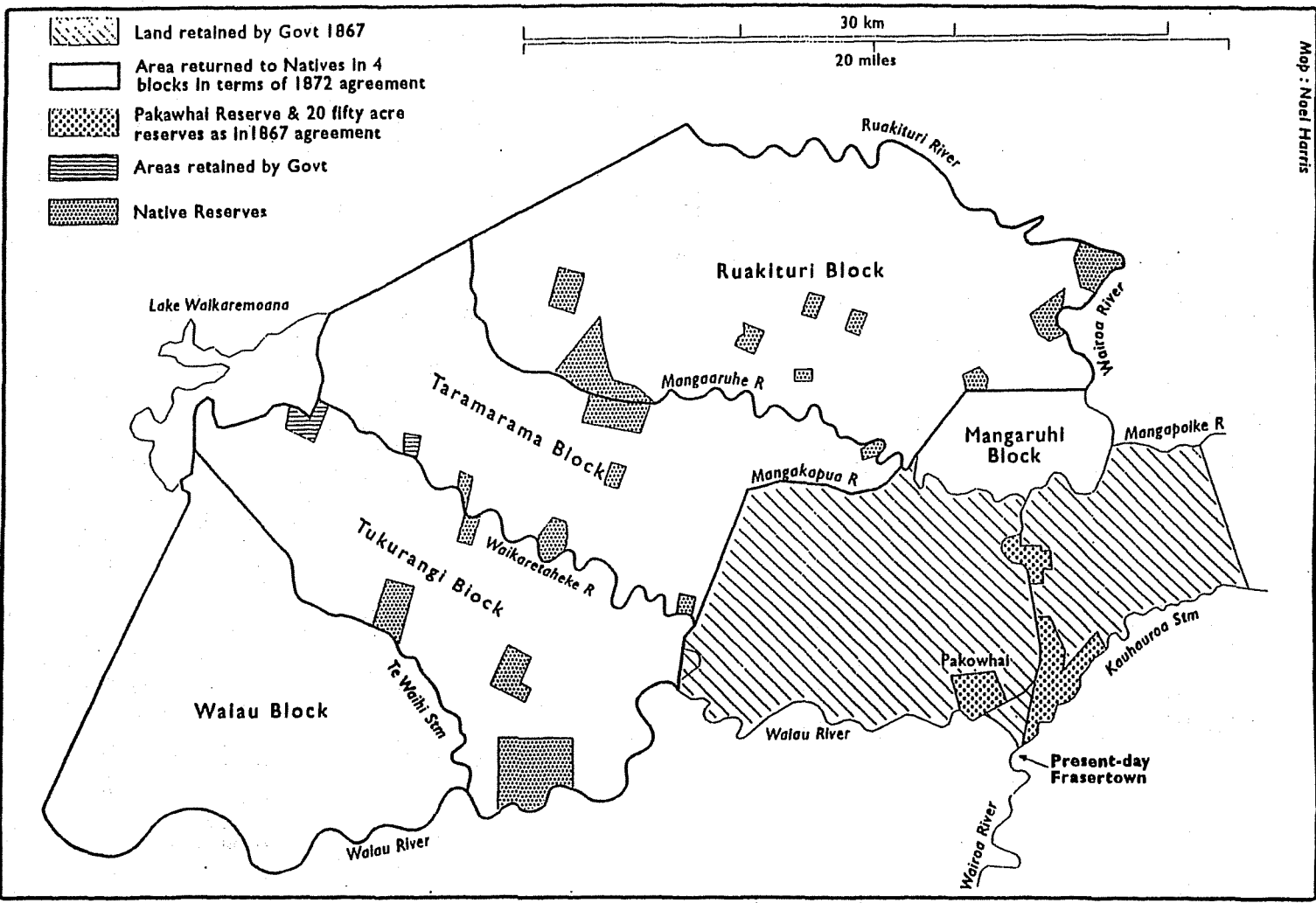


Figure 4: Crown purchases and confiscation

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Table 3.1: Ngati Kahungunu reserves

Tukurangi block		Taramarama block		Ruakituri block	
Reserve	Acreage	Reserve	Acreage	Reserve	Acreage
Te Kahotea	2000	Ohiwa	700	Whataroa	1000 (1001 on ground)
Te Kiwi	600	Otamariki	100 (90 on ground)	Rimuroa	400 (416 on ground)
Tarapatiki	200 (210 on ground)	Mangapapa	200 (210 on ground)	Makareao	200 (202 on ground)
Makahea	500	Koariari	100 (105 on ground)	Okare	180 (188 on ground)
Tukurangi	500 (517 on ground)	Wharepapa	100	Ngaiapu	20
		Pukewhinau	300 (295 on ground)	Waikatea	100
				Eripeti (Raupo)	100 (102 on ground)
				Tapatangata	20
				Tarake	300 (324 on ground)
				Matakuhia	400
				Paraumu	100
				Oriwha	100

and one of 300 acres; and a reserve of 1100 acres in Taramarama. Locke also suggested that 300 acres be marked off as a military reserve around the redoubt at Onepoto and that 150 acres close to it be marked off as a timber reserve.

Crown grants for the reserves in the Tukurangi, Ruakituri and Taramarama Blocks for the Wairoa Maori had been issued by February 1881.⁴⁹ But dissatisfaction over the way the grants were awarded was to persist into the twentieth century.

The Urewera and Ngati Ruapani had to wait a bit longer. In August 1882, Richard John Gill, of the Native Land Purchase Department, wrote to Preece, the resident magistrate, that it was not intended to issue Crown grants for these reserves until the nature of a trust was clearly defined.⁵⁰ This must have been done by 1884 for in that year it was notified that a sitting of the Native Land Court was to be held on 8 July 1884 to define the individuals and their respective shares in the Urewera reserves.⁵¹ The reserves were listed as: 1100 acres in Taramarama; 300 acres in Tukurangi; and 791 acres and 298 acres in Waiiau Survey District. The 791 acres represented the 800 acres reserved in the Tukurangi block, less nine acres for a

49. Captain Preece, 1 February 1881, MA, 1/1915/2346

50. Gill to Preece, 18 August 1882, MA, 1/1915/2346

51. *New Zealand Gazette*, 1884, no 69, pp 942-943

road, while the 298 acres was from the 300 acres reserved in the Waiiau block, less two acres for a road.

The sitting for these hearings was to be held at Hastings, but before they could proceed the Native Land Court dismissed the applications, saying that it had no jurisdiction over these lands because the reserves had not been specifically excluded in the deeds of sale to the Crown. The deeds had listed the acreage to be reserved, without specifying the land. Apparently the only answer to remedy this was to proclaim the land native reserves under section 144 of the Land Act 1877, and as temporarily reserved for the use and support of the Urewera and Ngati Ruapani.⁵²

The court hearing finally took place on 9 March 1889. The court found that the owners of the Urewera reserves were the 60 people who signed the deed of 12 November 1875 and that they were entitled to equal shares.⁵³

3.6 OTHER RESERVES

3.6.1 Te Waharua

In May 1883, Rewai Rangimataeo and Maraki Te Koari (or Kohea) wrote to Bryce the Native Minister, requesting that a Crown grant be issued in their favour for 100 acres at Te Waharua, out of the confiscated land. They said it had been promised to them by McLean at Napier on 13 May 1875. They had asked for 200 acres but had been promised 100.⁵⁴ This was typical of McLean, to promise a reserve and then leave it for his staff to sort out later, usually with the result that nothing more was ever done about it. But this time the claimants had witnesses. McLean had made his promise in the presence of Captain Richardson and others. Richardson corroborated their account in a letter to Preece:

It was understood at the time that it was intended as a mark of loyalty on his part during the disturbances and further as he was the most active partisan Sir Donald McLean had in the early days when acting as Chief Land Purchase Commissioner. Had Sir Donald lived there would have been no trouble in the matter. The fact of the natives taking possession immediately after their return from Napier to Wairoa show the 'bona fides' of the transaction. It would be a gross injustice to Maraki if deprived of his claim to the land.⁵⁵

This was also confirmed by a note from Hamlin, dated 9 October 1875. Bryce was in no doubt that the promise had been made but he was sure that it had been merged in with the other reserves (on what evidence he did not say). Nothing more was done at the time, except to file the papers. No answer seems to have been made to Rewai and Maraki.

52. *New Zealand Gazette*, 1885, p 246

53. Preece to Under-Secretary, 29 March 1889, MA 1/1915/2346, copies of the judgment included

54. *Ibid*, 26 May 1883

55. *Ibid*, Richardson to Preece, 26 November 1883

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The matter surfaced again in 1886. Preece wrote asking for action on the claim of Maraki Kohea.⁵⁶ It was referred to Locke who was adamant that it had not been merged with the other reserves made, as supposed by Bryce. However nothing further was done before Maraki died in September. Preece wrote that 'only a few days before his death he was asking whether anything had been done in the matter, and his relations have since been enquiring'.⁵⁷

The records were at last examined. It was discovered that in the meantime 50 acres had been Crown granted to a Mr Bolan, a military settler. The remaining portion of the section, about 130 acres, had been promised by the Land Board to another settler. Given that, Morpeth, the Native Under-Secretary, did not think the land should be given to the claimants. Instead he suggested that they be offered land elsewhere.⁵⁸

Preece, for one, saw the injustice of this proposal:

I would respectfully point out that if Mr Morpeth's recommendation is carried out it will be a more inequitable settlement of the matter. The land in question is specially valued by the Natives because it is the site of an old settlement, and fishing ground.

He noted that a promise made in 1875 by McLean, in consideration for loyal services, should be considered before a promise made by the Auckland Waste Lands Board in 1886. He also pointed out, that 'Had the matter been settled then [in 1875] Maraki Kohea, would have got the 100 acres where Sergeant Boland selected his'.

As it was:

the lot awarded to Sergeant Boland has recently been purchased by Mr Carroll jnr of Wairoa for the purpose of allowing Natives to remain where they have been residing for some years under the impression that the land was Maraki Kohea's. The other land from which it is suggested by Mr Morpeth that the 100 acres should be selected is situated 10 miles up the river and is of inferior quality, besides which there are not old associations attached there to, which would make it valuable in the Native mind.⁵⁹

Morpeth concurred and Preece was instructed to select 100 acres out of the remaining 130 acres.⁶⁰ This was given effect to by the Native Contracts and Promises Act 1888.

3.6.2 Whakamarino

Tamihana Huata and others were not so lucky. In 1881 Tamihana Huata wrote arguing that 300 acres known as Whakamarino had been wrongfully included in the 1100 acre Urewera reserve out of the Taramarama block. He wanted the block resurveyed so that the 300 acres could be awarded to him and his hapu as his parents and other relatives were buried there.⁶¹ A reply was apparently sent on 23

56. *Ibid*, Preece to Under-Secretary, 8 May 1886

57. *Ibid*, 25 October 1886

58. *Ibid*, 11 November 1886

59. *Ibid*, Preece to Under-Secretary, 9 December 1886

60. *Ibid*, 14 February 1887

March 1882 saying that the Government could not undertake the subdivision of the reserve. Tamihana wrote again on 15 July asking that it be divided off. Under-secretary Gill replied that no division of the land could be made except upon an order from the Native Land Court and the Government could not interfere any further.⁶² By this time Hapimana Tunupaura, of Kahungunu, had also written asking the Government what it intended doing about their 300 acres.⁶³ Preece had recommended that the 300 acres be defined and given to them, 'as the people are anxious to settle on it'.⁶⁴ Gill's reply, however pre-empted that.

The matter, however, did not go away, resurfacing in 1888 when Mako Paora, Meiha Te Hina and Pahi Matiu of Ngati Hiku wrote alleging that the 300 acres had been lost in the survey of the reserves and that 'Whakamarino has now been sold to Europeans by Government'. They wanted 300 acres elsewhere awarded to them.⁶⁵ The letter was sent to Preece who eventually replied in March 1889 that this was a long standing claim.⁶⁶ The next day he wrote from Napier that he had had the matter investigated before the Native Land Court at the same time as the Urewera reserves had been heard. Preece concluded from the evidence that the Whakamarino reserve was accidentally omitted from the deed at the time of purchase. The Judge though decided that the 300 acres could not be taken out of the Urewera reserve and that the Ngati Hika hapu would have to look to the Government for redress.⁶⁷ Sheridan, however, insisted that there was no evidence to support the Whakamarino claim.⁶⁸ A letter to that effect was sent to the claimants.⁶⁹

Huata approached the Government in 1890 and again in 1895 concerning the Whakamarino reserve.⁷⁰ As well, in December 1895 Tina Te Pokopoko wrote to the Native Minister about the reserve.⁷¹ Sheridan rather tersely replied that the 'missing former papers show clearly that these Natives have no claim and this has been repeatedly explained to them'.⁷² A further letter from Teira and Meiha Te Hira in February 1897 received the reply that the Government could grant no more reserves.⁷³

3.6.3 Ohuka

In 1887 a petition was received by the Government from Tamihana Huata and others concerning 40 acres known as Ohuka in the Taramarama block.⁷⁴ It was

61. MA, 1/1915/2346, 20 July and 1 December 1881

62. *Ibid*, 18 August 1882

63. *Ibid*, 14 June 1882

64. *Ibid*, minute dated 27 June 1882

65. *Ibid*, 20 July 1888

66. *Ibid*, minute dated 28 March 1889

67. *Ibid*, 29 March 1889

68. *Ibid*, handwritten minute on cover sheet, Sheridan to Lewis, 20 May 1889

69. *Ibid*, 27 June 1889

70. *Ibid*, 28 March 1890 and 22 January 1895

71. *Ibid*, 10 December 1895

72. *Ibid*, minute dated 12 May 1896

73. *Ibid*, 26 February 1897 and 30 April 1897

74. *Ibid*, petition no 232, 22 November 1887

Wairoa

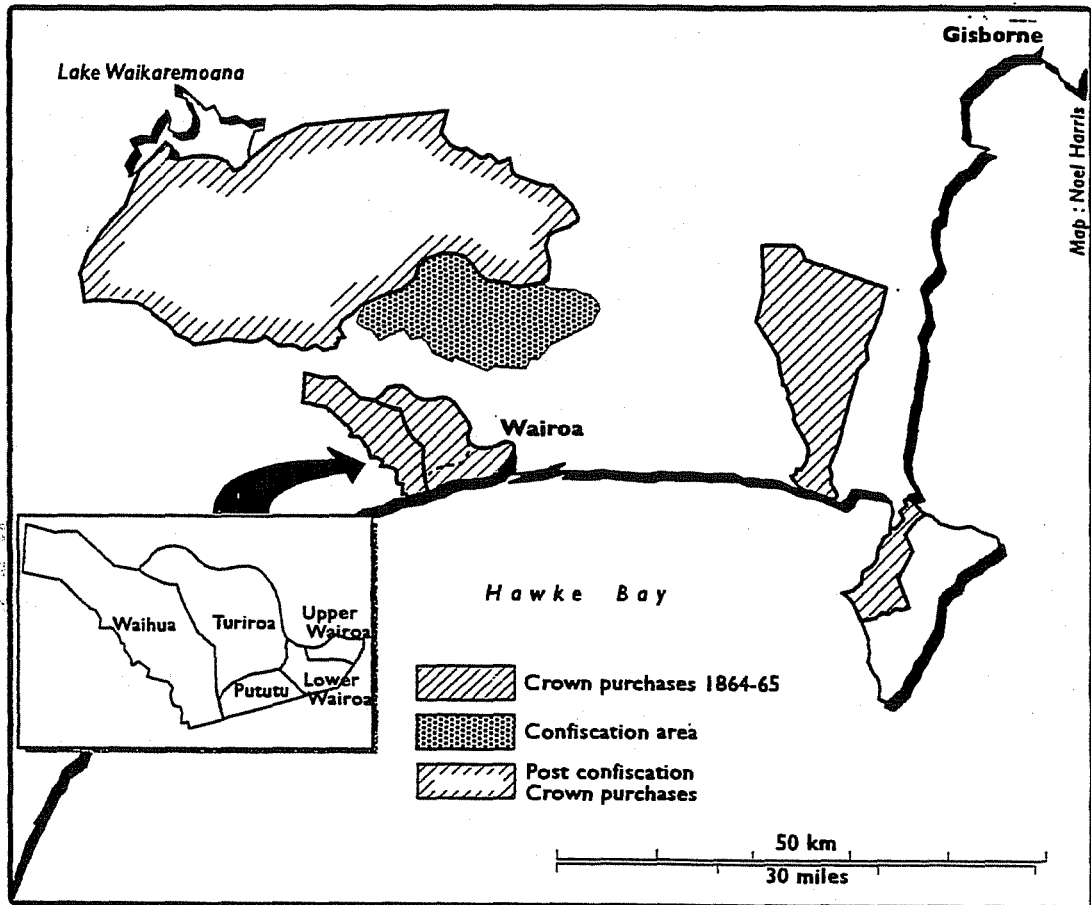


Figure 5: Crown purchases

referred to Preece who explained that Ohuka was one of the military reserves out of the 1872 agreement. He was of the opinion that:

the Petitioners have no shadow of claim to the land in question, it was originally confiscated and then by agreement was handed to the Crown, and again the whole block was conveyed to the Crown with the exception of certain Reserves the above piece not being mentioned as the Natives knew that they had no claim to them.⁷⁵

In 1890, Hapimana and Huata wrote again. They claimed that the reserve had been loaned to the Government as a military post at the time of the Te Kooti campaigns. They had always believed that it still belonged to them and were unaware of how it passed into the Government hands. They had seen the Native Affairs Committee's report and Preece's letter, but still did not accept this response to their claim.⁷⁶ Lewis asked that the writers be informed that the matter could not be reopened, and that seemed to be the end of it, at least for the time being.⁷⁷

75. Ibid, 13 December 1887

76. Ibid, 28 March 1890

77. Ibid, 17 April 1890

3.6.4 Rehearing of the main reserves

In 1881, Preece had written that the Wairoa Maori were upset with the way in which the Crown grants had been issued for the reserves in Tukurangi, Ruakituri and Taramarama. Instead of each reserve being allocated to the grantees in accordance with family and hapu interests and occupation, all the reserves in each block had been issued to all the grantees identified as having an interest in the blocks. Thus grants in the names of the whole 10 grantees had been issued for all four reserves in Tukurangi, 22 grantees in 12 reserves in Ruakituri, and 13 grantees in seven reserves in the Taramarama block. Preece recommended that a meeting be held with all the grantees to ascertain what names they wished put in the grant of each reserve.⁷⁸ At the time, though, the Government saw no reason to alter the awards.⁷⁹

The claimants however refused to give up and over the years a series of letters and petitions were received concerning the issue. Finally, in 1897 Tamihana and 51 others petitioned Parliament, praying for inquiry into and adjustment of the ownership of the reserves. This petition, along with several others, led to the passing of section 30 of the Native Land Claims Adjustment and Laws Amendment Act 1901. The Native Land Court was given the power to re-investigate the ownership of each reserve as if they had not previously been dealt with.⁸⁰ On 21 May 1906, the court hearing began regarding the ownership of the Ruakituri, Tukurangi and Taramarama reserves.⁸¹ Court orders were made on 1 June 1906 for the reserves shown in table 3.2.

Further research could be done on who these reserves were awarded to, under what conditions, and what subsequently happened to them. Some are still in Maori ownership but research should be done to find out what happened to the rest of them. Wairoa minute book 15, 1 June 1906, pages 100 and 101, should be consulted by claimants as the starting point for further research.

3.7 CONCLUSION

In the aftermath of the wars, the Government wanted to plant military settlers among the Pai Marire. Land was to be taken under the East Coast Land Titles Investigation Act 1866 for this purpose. But because there was no clear cut division on the ground between 'rebel' and 'loyal' interest, the Government could not clearly separate their land and resorted to out of court settlements, outside the provisions of the legislation that the confiscation was supposedly based on. Having swiftly acquired the land by 'cession' the Government was by no means as prompt in ensuring a title for 'loyalists'. When it finally got around to settling the matter, it ignored the agreements entered into with the kupapa, and acted on the basis of what was expedient, rather than the policy of rewarding 'loyal' and punishing 'rebel'. In

78. *Ibid*, 1 February 1881

79. *Ibid*, Richard John Gill, 24 March 1881

80. MA, 1/1915/2346, pt II

81. Ballara and Scott, 'Crown Purchases', Wairoa, pp 47, 58

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the end there were complaints that just as many 'loyal' Maori had lost land as 'rebel'.

By 1875, the Government had acquired approximately 375,304 acres from Wairoa Maori as a result of 1864 to 1865 and 1868 land sales, confiscation and post-confiscation sales. In an area of just over three-quarters of a million acres this represents nearly half of the land covered in this report. The rest of the land will be discussed under the Native Land Acts and public works takings.

Table 3.2: Reserves subject to court orders on 1 June 1906

Taramarama	Ruakituri	Tukurangi
Ohiwa	Whataroa	Kahotea West A, B
Otamariki	Whataroa urupa	Kahotea East
Mangapapa	Rimuroa	Pikaungache
Koariari	Makareao	Te Kiwi
	Okare	Tarapatki
	Ngaipu	
	Raupo	
	Tapatangata	
	Tarake	
	Matakuhia	
	Paiaumu (Paraumu)	
	Oriwha	
	Waikatea	

CHAPTER 4

ALIENATION THROUGH THE NATIVE LAND COURT

4.1 INTRODUCTION

From 1867 the Native Land Acts came into operation in the Wairoa district. The intention and policy of the Legislature in introducing the Act of 1865 was to facilitate the transfer of Maori lands by overcoming the strict use of the Crown's right of pre-emption, and by individualising tribal holdings through the issuing of certificates of title. The certificate of title was to be treated as the authoritative instrument which would free Maori land from any impediment to its transfer. Europeans were able to purchase Maori land, without having to wait for 'any preliminary sale or direct cession to the Crown, as stipulated for by the Treaty of Waitangi'.¹

Because by section 21 any single native could bring land before the court, every single Maori person in the country became a potential target for land-hungry settlers or speculators and their lawyers or agents. Martin wrote that 'Capitalists who desire investments can have no difficulty in finding the single man needed'.² Once one individual had taken tribal lands before the court the other members of the tribe were forced to attend or risk losing their property. As Ward says:

The Maori people were consequently exposed to a thirty-year period during which a predatory horde of storekeepers, grog-sellers, surveyors, lawyers, land agents and money-lenders made advances to rival groups of Maori claimants to land, pressed the claim of their faction in the Courts and recouped the costs in land. Rightful Maori owners could not avoid litigation and expensive surveys if false claims were put forward, since Fenton, seeking to inflate the status of the Court, insisted that judgements be based only upon evidence presented before it.³

All lands in New Zealand were held either tribally or by hapu. If certificates of title were to be issued they should have been issued to the tribes and hapu by name. Section 23 provided for this, but whether it was deliberate or a misinterpretation of the section, the judges of the Native Land Court adopted the habit of issuing certificates, upon which Crown grants were made, for all lands, whatever the area, to 10 or fewer people. In 1891, Fenton could remember only two cases in the whole

1. Commissioner Johnston, AJHR, 1872, G-6, p 8

2. Memorandum by Sir William Martin on the operation of the Native Land Court, AJHR, 1871, A-2, p 4

3. Ward, *A Show of Justice*, p 186

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of New Zealand where a certificate was actually issued in favour of a tribe by name.⁴ The rest of the tribe was therefore shut out, even if the court had already found the rest to be tribal owners in common with the 10. W L Rees commented in 1884, that it 'was in vain that the great mass of tribal owners murmured at this summary confiscation of their ancestral lands. They were told it was the law, and they must submit'.⁵

The tribe was placed in the position of having to choose ten, or a lesser number, from among themselves to put on the certificates of title. Invariably the chiefs were amongst the 10 placed on the title.⁶ For example, Ihaka Whaanga was placed on the titles to all the blocks on the Mahia Peninsula, except for those awarded to Nga Puhi. Paora Te Apatu's name shows up on a number of blocks as well. These two also figured prominently in the early 1860s Crown purchases.

Crown grants were issued to these chiefs vesting the freehold title absolutely in them as joint tenants and equal holders in the property:

It thus happened that the lands of tribes composed of numerous hapus and hundreds of individuals, became vested by the certificate of the Court, and afterwards by grant from the Crown, in ten or some lesser number of the vast body of owners.⁷

It was believed by most Maori that these 10 were to be trustees for the whole body. In Hawke's Bay, some had even been told this by the judges of the Native Land Court.⁸ But no word of trust was put in the certificate or Crown grants, instead the certificate alleged that they were the absolute owners of the land according to Native custom, and the Crown grants, which were issued to them by name, vested an absolute estate of freehold in possession, unencumbered by any trusts or conditions whatever.

In Hawke's Bay, the iwi had also been told by the judges that one person could not sell their interest without the consent of the others. They thus thought there was some protection in having 10 people named in a certificate.⁹ But they soon found this to be incorrect. As soon as the title became vested in individuals, those individuals were free to sell, lease or mortgage the land without any reference to the rest of the hapu or iwi, or even to their fellow grantees.

A favourite tactic of merchants, tradesmen, and often their own tenants, would be to tempt them to take credit without any restrictions for food, drink and clothing. Many of the principal grantees ended up in debt to the amount of many thousands of pounds. Storekeepers and other creditors would then threaten them with legal action unless the debt was paid immediately.

While the land was held by the tribe in common it could not be forfeited by the indebtedness of the individual. However once the land became the property of one person, or even six or 10 who held it by virtue of an absolute Crown grant, the

4. AJHR, 1891, sess II, G-1, p 46

5. Rees, AJHR, 1884, sess II, G-2, p 11

6. Cole, 'The Hawke's Bay Repudiation Movement', p 24

7. AJHR, 1891, sess II, G-1, p vii

8. See for example Paora Kaiwhata and J P Hamlin, evidence to the Native Land Laws Commission, AJHR 1891, sess II, G-1, pp 120, 121-122

9. See memorial of Karaitiana Takamoana, AJHR, 1869, A-22; also AJHR, 1873, G-7, p 18

Alienation through the Native Land Court

individual share or interest became a convertible property, which was liable to be seized for debt, and sold by the courts. In some cases what may have started out as a trivial debt would become increased by interest and law costs, and the land would become the payment for that debt. Usually at the same time as they were threatened with legal action, the chiefs would receive an offer from the urgent creditor, or some other party, for their land, and to avoid litigation, and seeing no other means of raising the money, Maori were forced to sell their land.¹⁰

All this was perhaps the natural consequence of a policy designed to not only promote land sales but to also lead to the detribalisation of Maori society. Hawke's Bay squatters in particular had campaigned vigorously against what they termed 'communism in land' and a newspaper in 1862 lamented the fact that 'All our difficulties in New Zealand arise from the existence of the "tribal right"'.¹¹

As Sewell admitted in 1870:

The object of the Native Land Acts was twofold: to bring the great bulk of the lands of the Northern Island which belonged to the natives . . . within the reach of colonisation. The other great object was, the detribalisation of the natives – to destroy if it were possible, the principle of communism which ran through the whole of their institutions, upon which their social system was based, and which stood as a barrier in the way of all attempts to amalgamate the Native race into our own social and political system. It was hoped that by the individualisation of titles to land, giving them the same individual ownership which we ourselves possessed, they would lose their communistic character, and that their social status would become assimilated to our own.¹²

4.2 LEGISLATIVE CHANGES

The consequences of the 1865 Act did trouble the conscience of some settlers and in October 1867 Parliament passed a new Native Land Act. Its purpose was to remedy the effects of the 10-owner rule. By section 17 of the 1867 Act certificates could still be issued to 10 of the owners, but the names of all other owners were to be registered in the court and endorsed upon the back of the certificate. This section further provided that the 10 whose names appeared upon the face of the certificate had no power to deal with the estate, except by way of lease for a period not exceeding 21 years; no sale or mortgage could take place until after the land had been subdivided among the different owners.

Although the Act was passed with the object of protecting all of the owners the fact that only 10 people could still be inserted on the face of the certificate perpetuated the problems of the 1865 Act. There was nothing to show on the certificate that the 10 named were trustees for the other owners, and they could appropriate all the rent money just as the 10 owners under the 1865 Act had done with the purchase money from their sales. Further, if someone did wish to sell the

10. AJHR, 1867, A-15; AJHR, 1870, D-16, no 9, p 12

11. Quoted in Ward, pp 147-148

12. NZPD, 1870, p 361

land, they could get around this section by not registering any names besides those of the grantees. If the judge asked in court whether there were other parties interested, it was simple enough not to say anything.¹³

For example, of the numerous blocks in the Wairoa district passed through the Native Land Court in 1868, this provision appears to have been enacted in only four cases and these were some of the smaller blocks: Te Rato, 301 acres, where 10 names were placed on the certificate of title, while 19 others were registered as joint owners under section 17; Te Whakapau, 281 acres; and Taupara 693 acres. Paeroa no 2, 1850 acres, was the exception because it was slightly larger.¹⁴

4.3 THE NATIVE LANDS FRAUDS PREVENTION ACT 1870 AND HAWKE'S BAY NATIVE LANDS ALIENATION COMMISSION

By 1870 the extent of 'frauds and abuses' under the Native Lands Acts forced the Government to introduce more legislation and the Native Lands Frauds Prevention Act 1870 was passed. The objective of this Act was to prevent the maladministration of lands vested in trustees, in cases where trusts had been created in the names of individuals, but were intended for the benefit of all; to take care that these trusts were fulfilled, and that the lands were not alienated so as to defeat the object of the trust. The same precautions were also to be exercised in respect of the alienation of lands that were not the subject of any trust.

Native trust districts were established (s 2) and trust commissioners appointed (s 3). The consent of the commissioner was necessary for any alienation of land (s 4). The commissioner had to be fully satisfied before he would agree to any alienation that the transaction was fair and equitable; that it was in accordance with the trusts affecting the land; that no part of the consideration, either directly or indirectly, was payable in liquor or arms; and that the parties understood the nature of the transaction (s 5). He was to show this by endorsing the deed of certificate (s 6).

In February 1871 H Turton was appointed trust commissioner under the Act.¹⁵ J D Ormond was satisfied the Act had been of great service in Hawke's Bay, but according to Ward, Turton was at best careless, at worse, unscrupulous.¹⁶ One transaction to come before him concerned the Orangitirohia block, in Wairoa, of 211 acres 2 roods. This block had been heard by the Native Land Court on 17 September 1868 and had been awarded to 10 grantees, without any restrictions.¹⁷ In 1870, 100 acres were conveyed to Dr Ormond for £150. Eight of the grantees had agreed to the sale, but Taraipene and Rauhira Timo had initially refused. To induce Taraipene to agree to the sale, she was promised a reserve of five acres for her and her children. The transaction was inquired into and approved by Turton, on 17 August 1871. According to a memorandum, signed by Ormond and appended to

13. AJHR, 1871,A-2A, p 4

14. Wairoa minute book 1

15. Evidence of Select Committee on Council Paper, AJLC, 1871, no 97

16. Ward, p 252; AJHR, 1871, G-7

17. Wairoa minute book 1, pp 34-35

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the deed of conveyance, occupation of the reserve was to be only during Taraipene and her children's life time; it was not to be permanent. This condition, however, did not appear to have been understood by the family, even though Turton swore he had explained it to them. They continued to believe the reserve to be theirs in perpetuity.

This case came before the Hawke's Bay Native Lands Alienation Commission in 1873. The evidence of a public officer was clearly preferred over that of Maori witnesses by the pakeha commissioners. Turton was commended for having 'effectually performed' his duty. The family had to make do with the sympathy of the Maori commissioners who were convinced that the terms of the deed had not been clearly explained to them at the time of the sale.¹⁸

The Hawke's Bay Native Lands Alienation Commission had been set up in response to the protest in Hawke's Bay over the alienation of Maori land. At the heart of that protest was the realisation that the loss of land was leading to the breakdown of the traditional fabric of Maori society and weakening chiefly authority.¹⁹ The commission commenced sitting on 3 February 1873 and sat throughout February, March and April.²⁰

A number of complaints regarding land in the Wairoa district were received by the commission. A typical complaint was:

Disputes alleged mortgages and sales. Asks inquiry into same. Calls for production of all accounts and documents referring to such alleged alienations. Requires a settlement of rents, and that the lands be returned to them.

One complaint against Joseph Carroll alleged 'mortgage foreclosed to pay other grantees' debts. Wants his share of land returned' (complaint 285). Another complaint against Carroll claimed 'Mortgages were paid in flour, sugar, grog, goods, and money' (complaint 111). Possibly because the majority of the commission's time was spent on the Heretaunga case only three Wairoa cases were heard; Orangitirohia (see above), Huramua and Te Kiwi.

The Te Kiwi block is an example of land acquired through fraud. The key figure in this case was the licensed interpreter, George Worgan. According to Ballara and Scott, Worgan was several times dismissed from Government service and was even imprisoned for fraud, forgery, or suspected embezzlement of Maori money.²¹ Worgan had also been involved in the Orangitirohia case.

Te Kiwi was heard by the Native Land Court on 24 September 1868. It was awarded to 10 grantees and the court ordered that it be made inalienable by sale or mortgage.²² The block, containing 133 acres 2 roods, was then leased to William Couper, by a deed of lease dated 20 December 1869, for 21 years at £15 per annum. The original lease was drawn up in Maori by Ahipene Tamaitimate, brother of one of the grantees. It stipulated that the land was to be occupied jointly by Couper and

18. AJHR 1873 G-7, pp 31, 70, 114

19. Cole, 'The Hawke's Bay Repudiation Movement'

20. AJHR, 1873, G-7

21. Ballara and Scott, 'Crown Purchases' report, p 160

22. Wairoa minute book 1, pp 115-116

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the grantees. At some stage, Couper, through Wogan, executed a new lease giving himself exclusive legal right to the possession of the land. According to the complaints, Wogan never explained this to them. They thought they were signing an agreement to pay George Burton, the surveyor, £10 out of the lease money. They had only leased the land, in the first place, to raise money to pay the surveyor. They only became aware of the provisions of the new lease when, in 1870, Couper began killing their pigs that had previously fed on the ground. His wife and children burned posts that they brought for fencing.

Wogan denied the fraudulent conduct imputed to him but it was clearly proved that several of the grantees never signed the deed, that their names had been signed in their absence by their relatives. This may have been a usual custom at the time but Wogan filed a declaration that he had seen all the grantees sign on the same day, and that previous to the execution of the deed it was carefully interpreted by him to the grantees in the presence of his clerk, Clement Saunders. Wogan was compelled to admit that this was a false declaration. Usually the pakeha commissioners bent over backwards to avoid imputations of personal blame, but in this case they had to acknowledge the accusations against Wogan and even recommended his suspension for gross negligence. The Maori commissioners recommended that the lease be declared null and void.²³

The commission proved to be a big disappointment for Ngati Kahungunu. Despite Commissioner Richmond admitting that they did have a real grievance with respect to section 23 of the 1865 Act,²⁴ both pakeha commissioners believed that the Maori had been treated fairly by the settlers and dealers of Hawke's Bay.²⁵ Furthermore, the commission was only directed to inquire into and report to Parliament upon the complaints, it was not empowered to give any redress.

The commission did achieve one significant thing though. It provided valuable evidence of the effect of the process the Crown set in place by Parliament's legislative act. For example, Worgan's evidence showed the number of transactions in Wairoa, for which he acted as Maori interpreter, in 1869. In that year alone he got 60 to 70 deeds signed, involving some 1000 Wairoa Maori. At one stage, he had 'Natives ... coming and going the whole day long for three weeks'.²⁶ The commission also made some successful recommendations for reform of the Native Land Acts, several of which were incorporated into the Native Land Act 1873.

4.4 THE NATIVE LAND ACT 1873

Under this Act, districts were to be created and district officers appointed, whose duty it was to ascertain the tribal and hapu boundaries, being assisted by Maori chiefs, before reporting to the court. The judges were supposed to take strong notice of the officer's findings. In order to prevent landlessness, it was the duty of the court to see that reserves of at least 50 acres were made for each Maori man, woman and

23. AJHR 1873, G-7, pp 34, 50, 75 and 128-133

24. Ibid, p 7

25. Ibid, p 6

26. AJHR, 1873, G-7, pp 129 and 131

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child of the district. The reserves were to be inalienable by sale, lease or mortgage, except with the consent of the Governor. McLean, the architect of the Act, also contemplated a 'Domesday Book' of Maori claims and whakapapa, which would prevent the court from entertaining spurious claims by increasing its depth of local knowledge.²⁷

The most significant thing about this Act, though, was substituting the certificate of title with a memorial of ownership. By this Act the system of individual ownership was carried to its furthest limits. From granting land to a tribe by name, as intended by the 1865 Act, the whole people of the tribe individually became the owners – not as a tribe, but as individuals. Each man, woman and child was to be listed on a memorial of ownership and the extent of his or her individual share in the block recorded in the memorial. No sale, lease or mortgage could be valid or effectual unless it was executed by every person named in the memorial. As Locke said, when commenting on the situation in Wairoa, 'Such a state of things is not in accordance with Maori custom, whatever it may be else'.²⁸ Neither was it in accordance with European law. It was not usual in nineteenth-century England for every man, woman and child to be listed in a deed of ownership. J P Hamlin testified that in some instances names were assigned to children not yet born and their names were then put in as owners. There were also cases where men and women had been put in to meet contingencies. According to Hamlin, this had been done in the Whakapunake block in Wairoa.²⁹

The difficulties inherent in such a system are obvious. Because all had to join in any contract, agreement, lease or sale, it meant sometimes that the land could not be effectively utilized. If some of the owners wanted to farm the land for example, or develop it, they would have to get the consent of the rest of the owners. Even supposing they could get the consent of perhaps 100 people, if one sowed a crop, the others could claim an equal right to the produce. If a few fenced in a paddock or small run for sheep or cattle, their co-owners could turn their stock or horses into the pasture. The apprehension of results, not to mention the great inconvenience of getting the consent of over 100 people, paralysed any industry Maori might conceivably undertake.

The system was not even working for the benefit of the Europeans. With so many owners to negotiate with individually, agents for the buyers found it easy to begin to purchase a title but hard to complete the purchase. Endless expense and anxiety was borne by would-be purchasers as they tried to finalise their title. While this may have been useful for preventing the alienation of Maori land, it also meant that land that could have been yielding a revenue to the country, as well as an income to its Maori owners, was lying idle. And in the end it only postponed the sale of land, it did not stop it altogether.

If a determined purchaser could obtain a few signatures to a lease there was nothing the rest of the owners could do to stop him squatting on the land, even if there might be 300 of them. They could not turn him off by force, because they

27. AJHR, 1891, sess II, G-1, p ix; Ward, *et al*, 'Historical Report on the Ngati Kahungunu Rohe', p 114

28. Locke to Under-Secretary, Native Department, 18 May 1877, AJHR, 1877, G-7, no 6

29. AJHR, 1891, ses II, G-1, p 122

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would be prosecuted and punished by the law; nor could the courts turn him off by legal process because he could plead the leave and license of some of the owners. By advancing payment to some owners to secure a foothold in the title, a shrewd purchaser could complete the purchase over a period of years, gradually, through various means, buying out the rest of the owners.

This was the situation Hamlin encountered when trying to purchase approximately 100,000 acres of land situated between Wairoa and Poverty Bay, known collectively as the Hangaroa blocks, for the Crown. By this time the Crown had resumed large-scale purchases of land in Wairoa. The negotiations for these blocks commenced in 1875 but in July 1877 Hamlin was still trying to complete their purchase. He reported:

The great length of time occupied in the survey and passing of the land through the Court, coupled with the fact of there being in each block a very large number of grantees to deal with, have been the chief causes of delay.³⁰

Hamlin's tactic, once the land had passed through the Native Land Court, was to visit the various owners where they lived, either at Wairoa or Gisborne, and buy their interests out bit by bit. By this method he completed the purchase of the land in 1880 and 1881. This included the Hangaroa Matawai 1 block, 3269 acres; Tauwharetoi, 50,389 acres; Whakaongaonga, 12,418 acres; Tuahu, 9250 acres for a total of £18,965; and Waihau, 13,800 acres for £3506.³¹ Also purchased in 1880 was Paritu 1, 1320 acres for £303 and Takararoa 1, 1000 acres for £158.³²

Hamlin's actions may not have been illegal but the fact that many of these people were heavily in debt was obviously a factor in these sales. Frederick Ormond had noted in 1876 that nearly every Maori in Wairoa had run into debt, on the expectation of the money to come from selling the returned confiscated land, and had to sell more land to clear it off.³³ As well, heavy floods in early 1877 had destroyed a large quantity of their food; the early crop of potatoes had rotted after being dug up and the seed potatoes for the late crop were washed out of the ground. At Nuhaka, the greater part of their cultivations had been covered with from six to eight feet of silt. Wairoa Maori would have suffered great hardship if European storekeepers, tempted by the prospect of land sales to the Government, had not supplied them with flour, sugar and other necessaries on credit. Ormond reported that, because of this, nearly every Maori in the district was about £10 in debt, with some ranging from £200 to £500. One chief was reported to be in debt to the amount of £2000.³⁴

These purchases were conducted under the Immigration and Public Works Act 1870 and its amendments. By the 1870s the Government had decided to embark on a massive programme of immigration and public works, aimed largely at opening up the North Island for European settlement. It was felt that public works on a much

30. AJHR, 1877, G-7, no 7

31. AJHR, 1881, C-6, p 8; *New Zealand Gazette*, 1881, p 174

32. AJHR, 1881, C-6, p 8; *New Zealand Gazette*, 1881, p 752

33. AJHR, 1876, G-1, no 36; see chapter 3

34. AJHR, 1877, G-1, no 12

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larger, national scale, were necessary to stimulate the country and to encourage immigration. At the same time, money spent on warfare could be better spent on employing Maori on public works construction which would also assist in their pacification and civilisation. The Government accepted therefore, that forceful acquisition, in 'sensitive' areas anyway, and the continuance of the wars was holding back the continued development of the country. In addition, the withdrawal of imperial troops meant that the colony had to avoid provoking further serious confrontation.

The public works legislation of the 1870s provided authority for the massive new national programme of public works. In addition it reflected the Crown policy of purchasing Maori land required for public works in the North Island at least, and the hopes of politicians that public works would be more effective than warfare in solving the 'Native problem'.³⁵

Locke admitted that the purchase of a large extent of this upper Wairoa land, stretching to Waikaremoana and then northward to Poverty Bay, was intended to contribute to the general safety of the district, by enabling settlement to extend along the boundary of the territory of the Tuhoe tribes.³⁶ The negotiations for this 100,000 acres had begun at the same time as the Government was purchasing the four returned confiscated blocks.³⁷

4.5 MAORI INITIATIVE AND FRUSTRATION

By 1872 the war with Te Kooti was over and the Wairoa people could start to recover from its debilitating effects. Some of these people had been fighting with the Government side, thereby neglecting their cultivations, and found themselves heavily in debt to the local storekeepers. As Lambert admits, the bulk of the Maori people at this time were 'deplorably poor'.³⁸ He goes on to say that it was at this time that the settlers secured large tracts of land, quite close to the Wairoa township, on long leases without improvement clauses. As an example, Lambert cites the Duff brothers who held leases of 21 years for both Paeroa 1 and 2, 1495 acres and 1850 acres respectively at a rental of £100 per annum³⁹. So numerous were the owners that many of the yearly cheques totalled only 18 pence or half a crown. As Lambert says, 'Of what use was that to the poor Maoris?'

Nevertheless, throughout the 1870s the Wairoa Maori continued to participate in the settler order, just as in the pre-war years they had consciously engaged in the new order to share its advantages equally with Pakeha. Locke reported that with Te Kooti gone from the area, the Wairoa Maori were able to settle down to the cultivation of their lands, with sheep runs being established in the upper Wairoa and Poverty Bay area.⁴⁰ He also reported the attention parents were paying to educating

35. Cathy Marr, 'Public Works Takings of Maori Land, 1840-1981', Report for the Treaty of Waitangi Policy Unit, 1994, p 70

36. Locke to McLean, 29 May 1875, AJHR, 1875, G-1 no 14

37. AJHR, 1875, G-6, pp 5, 21, see chapter 3

38. Lambert, p 710

39. AJHR, 1886, G-15, p 17

Wairoa

the rising generation. A school was to be erected in Wairoa, towards which the Maori had subscribed £70 and had arranged to pay a portion, out of rents accruing from leased lands, towards the teacher's salary.⁴¹

But the continuing operation of the land court and subsequent land purchasing played havoc on consistent enterprise. As Ward says, it was exceedingly difficult for the owners listed on multiple titles, their shares increasingly fragmented through the introduced system of succession, to organise effectively to farm their land.⁴² By 1874 Locke was reporting that the Wairoa people, who used to be owners of three sailing vessels navigated by themselves, and who formerly exported large quantities of wheat and other produce, now could barely grow sufficient potatoes for themselves.⁴³ As the Wairoa people became increasingly disillusioned with the process they, in some cases, started turning their backs on the system. By 1880 the resident magistrate was reporting that the only native school in the district was poorly attended.⁴⁴

The rising discontent over the Native Land Acts led to the emergence in the mid 1870s of a vigorous new movement called the Komiti. Led by a young Hawke's Bay chief, Henare Matua, the komiti's objective was to practice passive resistance to all land sales. It sought to stop land being put through the Native Land Court and to upset fraudulent land transactions.⁴⁵ The influence of the komiti quickly made itself felt in Wairoa. Locke reported that as a result of all the leasing and selling of lands that had gone on there, the Wairoa people:

have got into a slothful, discontented, drinking state, which has been taken advantage of by designing Natives travelling from other parts of the country, telling people that they can upset all sales, leases, mortgages, etc, and persuading them to join what is called the Komiti.⁴⁶

In 1874, there was an attempt by the komiti to disrupt the erection of the telegraph between Napier, Wairoa, and Poverty Bay with the local Maori demanding payment for the wire passing over their land. However, 'by careful explanation', from Locke, the work was able to proceed.⁴⁷

A more serious event occurred in 1878 when the komiti refused to allow a case to be heard by the Resident Magistrate's Court. Some horses had been impounded at Mahia and when the owners of the horses heard about it they broke down the pound. The poundkeeper took proceedings against them, a summons was served and a date set for hearing, but the komiti refused to have the case heard. The native assessors, Toha Rahurahu and Hamana Tiakiwai, were then sent to try and sort things out but were unsuccessful. The komiti was not prepared to back down. The Government

40. AJHR, 1872, F3A, no 36

41. AJHR, 1874, G-2, no 14

42. Ward, p 267

43. AJHR, 1874, G-2, no 14

44. AJHR 1880, G-4, no 13

45. AJHR, 1874, G-2, no 14; Ward, p 272

46. AJHR, 1874, G-2, no 14

47. Ibid

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was powerless in the face of such intractability. All that Frederick Ormond, the resident magistrate, could suggest was:

that some gentleman enjoying the confidence of the Government, and as such able to reason with authority, be sent to them to explain their real position; and I feel assured that then these simple people will very soon return to their old state of obedience and order.⁴⁸

Maori complaints about the Native Land Court included its strict adherence to procedure. The case of Raniera Turoa provides a good example of this. He was required to give evidence in relation to a claim over the survey of the Mangapoike Block (situated inland between Wairoa and Gisborne). He left Gisborne at six o'clock in the morning, arriving at Wairoa at two in the afternoon in time for the hearing, a journey of 70 miles and nine hours. He was extremely fatigued as a consequence of his long ride and asked the court if the case could be put off until the next day, until he had time to recover. The court, however, requested that he proceed immediately with his evidence. To add insult to injury, it then demanded that he pay £1 and told him that if he did not pay the money straight away judgment would be given in favour of the European. Luckily for Raniera, the Reverend Tamihana Huata was in court that day and gave him £1. Notwithstanding this, he lost the case and judgment was given in favour of the European.⁴⁹

Raniera was of the opinion that if the matter had taken place before, say a Native Committee, instead of the Native Land Court, the proceedings would have been conducted entirely differently:

The behaviour shown would have been different. There would have been no threats, no intimidation, nor any objection made to any evidence I might have wished to give.⁵⁰

Raniera's complaint also highlights another standard complaint, that of having to travel long distances for their hearings. This was a development of the court in later years. Previously, the court had sat as near as possible to the settlements where the land was situated. In 1885, Captain Preece, the resident magistrate, reported the Wairoa Maori complaining bitterly at having to travel from Wairoa to Hastings for some hearings. They were put to great expense providing for travel and food for those who had to attend. To cut down on the expense they sent only a few men to represent the tribe. But these men then had to stay with the local Maori, who sometimes put in a claim to the land, which would not have happened if the case had never been taken out of the district. Being dependent on local Maori generosity and under obligation to them, the applicants were placed at a great disadvantage and preferred to admit their claim rather than oppose it.⁵¹

Another consequence of long distance hearings was that the old people were frequently unable to travel, owing both to infirmity and the expense. As they were

48. AJHR, 1878, G-10, pp 1-2

49. AJHR, 1891, G-1, minutes of evidence, pp 17-18

50. Ibid

51. Preece to Under-Secretary, Native Department, 8 June 1885, AJHR, 1885, G-2, no 12

Wairoa

usually the best and most reliable persons to give evidence of the traditions of the people and of the ownership of the land, according to native custom, a great injustice naturally resulted due to their absence. In some cases, it was claimed, this was what was intended by the younger and more resourceful members of the tribe. By having the cases heard at a distance, the old people would be prevented from attending to give evidence in support of their claims. The result would be, their exclusion from the certificate of ownership, in favour of the younger members.⁵²

J T Large, a licensed interpreter, gave another example of the consequences of having hearings miles from the block:

When the Hereheretau subdivision case was being tried by the Court under Judge Wilson, the Natives interested made a strong effort to obtain the portion containing the homestead of Mr J Hunter Brown, the lessee of the block and purchaser of several undivided interests therein. Whereupon Judge Wilson told the Natives that he would no more think of giving them the European's homestead than he would of giving the European their (the Natives') settlement. Yet, in spite of this assurance, the Court, in making the partition of the block – having failed to personally inspect the land – actually awarded to Brown the portion of the block containing the chief Native settlement (Te Whakake), the church and burial-ground. This extraordinary decision led to a rehearing, when the judgement was, of course, reversed.⁵³

His point was that if the court had sat as near as possible to the land being adjudicated upon, the court would have been able to go and examine the land before giving judgement. If this had been done in all cases it might have cut down on the applications for rehearing.

4.6 W L REES AND THE EAST COAST MAORI TRUST

By 1886 the amount of land left in the Wairoa district which had not yet passed the Native Land Court was 276,300 acres.⁵⁴ Of the land that had passed the court since 1867, a figure well in excess of 200,000 acres (see table 4.1), only 36,622 acres were still held by Maori as inalienable; the rest had presumably been either sold or leased, to the Crown or Europeans.⁵⁵

One European alarmed at the rapid loss of land by Maori was William Lee Rees. Rees was born in Bristol in 1836 and came out to Australia as a young man. He started out as a solicitor but did not complete his articles and turned instead to religion. After spending four years as a minister of the Congregational Church he resumed his law career and was called to the bar in 1865. In 1866 he moved to New Zealand, practising for three years at Hokitika before moving to Auckland. His first brief was for the plaintiffs in the case of *Whitaker and Lundon v Graham* (which is where he may have first got interested in the Native Land Acts). He interested himself in politics and became a member of the Auckland Provincial Council in

52. Ibid; Wi Pere, minutes of evidence, AJHR, 1891, G-1, p 9

53. Large, correspondence, AJHR, 1891, G-1, no 8, pp 88-89

54. AJHR, 1886, G-15, p 1

55. Ibid, p 13, this was apart from the reserves of the confiscated lands

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1875. It was here that he met Sir George Grey and became his loyal supporter. Rees entered Parliament as Grey's follower upon winning the Auckland City East seat in 1876.⁵⁶

Rees, and Grey for that matter, did not want to see a complete cessation to land sales, rather they just wanted to do away with the 'free for all' system of individual purchase under the Native Land Acts. Rees favoured a system where the iwi was treated as a corporate body. The iwi would be the company, its name the corporate name of the body, its members as shareholders in the company, and the land no more owned by the individual members of it than the land of a joint-stock company is owned by the individual shareholders. All decisions affecting the land would be made by a committee, chosen by the owners, and subject to the iwi and some responsible Government agency.⁵⁷

Rees's scheme saw him setting up in partnership with Wi Pere. Wi Pere was born on 7 March 1837 at Gisborne (then Turanga), the son of Poverty Bay trader Thomas Halbert and a Maori woman of considerable mana, Riria Mauaranui. Through his mother he became a leading chief of the Rongowhakaata and Aitanga-a-Mahaki people.⁵⁸ He also was concerned at the rapid loss of Maori land. In 1878 he joined forces with Rees and together they won sufficient confidence from local Maori to have land blocks vested in themselves as trustees. The idea was that the trustees were to handle the land in accordance with the wishes of the tribe as a whole. The tribes' wishes were to be expressed through an elected committee of owners in each block. Rees and Wi Pere were always to consult this committee before selling, leasing or mortgaging the land, while prospective settlers would only have to deal with two trustees, instead of a multitude of owners.⁵⁹

The venture floundered on the suspicion and criticism of the Gisborne citizens and settler politicians. It was attacked as a 'monstrous scheme of robbery', with Rees and Wi Pere being accused of having 'evil and selfish designs' on Maori land.⁶⁰ They also experienced difficulty in securing the approval of the Native Land Court for their trusteeship over Maori land, the court holding that the blocks could not be vested in any persons other than the Maori owners. Nothing daunted, Rees launched the East Coast Native Land Settlement Company in July 1881, later renaming it the New Zealand Native Land Settlement Company. The company was to exercise the functions which Rees had intended himself and Wi Pere to exercise, namely that of an agency between Maori vendors and European purchasers. The Maori were to assign their land to the company in return for shares in the company. European shareholders would invest capital in the company which would be used to assist Maori to secure a Crown grant to their land, and to survey and subdivide the land prior to it being sold or leased to immigrant settlers, who were to be brought out by the company.

56. G Scholefield, (ed), *Dictionary of New Zealand Biography*, vol 2, Wellington, 1940, p 212; Ward, *The History of the East Coast Trust*, p 10-11

57. AJHR, 1884, sess II, G-2

58. *The Turbulent Years, 1870-1900: The Maori Biographies from the Dictionary of New Zealand Biography*, vol II, p 90

59. Ward, *East Coast Maori Trust*, p 17

60. *Ibid*, p 19; AJHR, 1884, sess II, G-2, p 3

The company set off with a flourish. The Maori were actually writing to Rees with offers of land and by the end of 1882 the company had acquired 125,000 acres.⁶¹ Some capital was subscribed and a few settlers arrived, but the company was unable to give clear titles to the settlers, even though the supreme court found that the company had the freehold of the blocks and not just a trustee interest. By the end of 1883 the company had sold only about 20,000 acres to the value of £43,952.⁶² With survey, legal and other expenses it became necessary to mortgage the land to the Bank of New Zealand. Economic depression and political hostility compounded the problems and the directors were unable to secure legislation which would have enabled them to deal with the land on the authority of the former Maori owners. In July 1888 the settlement company was wound up and the land was subsequently placed in the trusteeship of Pere and a reluctant James Carroll.⁶³

Carroll was born at Wairoa in 1857. He was one of eight children of Joseph Carroll and his Ngati Rakaipaaka wife, Tapuke. His father, a Sydney-born Irishman, had come to the Bay of Islands in the early 1840s and begun whaling, timber-cutting, blacksmithing and coastal trading in northern Hawke's Bay in association with the local Maori communities. He eventually turned to sheep and cattle farming on his property at Huramua, which he had acquired from the Maori grantees in 1869.⁶⁴ These blocks, Huramua 2 and 3, came before the Hawke's Bay Native Lands Alienation Commission in 1873. Some of the owners apparently did not understand that these blocks had been sold to Carroll. The commissioners did not find in their favour.⁶⁵

James Carroll's upbringing was bicultural right from the start. Maori was his first language and he received whare wananga instruction. At the age of eight he attended the native school at Wairoa, then a school in Napier, but he left after two or three years. In 1887 he won the Eastern Maori seat in Parliament. Carroll firmly believed in Maori control over their own land. He favoured leasing rather than selling, the revenue arising from the leases to be invested in their own farming. Carroll's standing on land questions earned him appointment in 1891, along with Rees and Thomas Mackay, to a comprehensive commission of inquiry into the Native Land Laws.⁶⁶

4.7 THE 1891 NATIVE LAND LAWS COMMISSION AND THE VALIDATION COURT

The commission was to investigate the whole tangle of acts and amendments governing direct purchase and the individualisation of the Maori ownership in land. It was then to provide a framework for an efficient and uncomplicated native land policy and law, which the Liberal Government would enact.

61. Ward, *East Coast Trust*, p 24

62. *Ibid*, p 33

63. *Ibid*, pp 38, 50

64. *The Maori Biographies*, p 8; AJHR, 1873, G-7, pp 35, 77; 176 Huramua, Gisborne Maori Land Court

65. Report of the Hawke's Bay Native Lands Alienation Commission, AJHR, 1873, G-7, p 35

66. *The Maori Biographies*, pp 9-10

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The inclusion of Carroll on the commission showed a new willingness on the part of the country's leaders to include Maori in the decision-making process on issues affecting them. As Rees had said, in 1884, the policy of the Government towards Maori had been to 'dragoon them by lead and steel, treating them as a conquered people, or to cajole them by flour and sugar, as if they were children'.⁶⁷ It never seem to have been to treat them as responsible adults capable of determining their own future. Whether Carroll's inclusion was due solely to the fact that he was a member of the Liberal Government or not, it still represented a major step in taking him into the Government's confidence and thereby giving Maori responsibility.

The report of the 1891 commission had a far-reaching effect on native policy.⁶⁸ Rees threw into it all his long-held cherished beliefs on the administration of Maori land. He recommended the abolition of direct purchase, abolition of individualisation of Maori ownership in land, the resumption of Government pre-emption and the creation of some responsible authority, like a Native Land Board, to administer Maori land. The board was to be a corporate body with a common seal, and the full power to act in all things as trustee of the Native lands for the Maori owners. He wanted a committee appointed by the owners of each block, who would choose sufficient reserves for the people and instruct the Native Land Board to lease or sell the land.

Carroll concurred in the majority of Rees's recommendations, except for the resumption of pre-emption. He was opposed to the Crown's exclusive right of purchase as he believed Maori could obtain a fairer price for their land when it was sold on the 'free market'. However Rees's recommendations were accepted by the Government and Government pre-emption was re-introduced in 1894. According to Ward, the result of this was that, despite the fact that the Government later released certain areas to private purchase, the worst excesses of individual dealing, of many buyers approaching many, many sellers of Maori blocks, were ended.⁶⁹

For the responsible agency between settler and Maori seller that Rees recommended, the Liberal Government launched a scheme of Maori Land Councils under the Maori Lands Administration Act 1900. Each council was a corporate body, with perpetual succession and a common seal. They were to have all the powers of the Native Land Court as to the ascertainment of ownership, partition, succession, the definition of relative interests, and the appointment of trustees for Native owners under disability. These councils later became the Maori Land Boards, which persisted to 1952.⁷⁰

Another result of the commission was the setting up of the Validation Court. Amidst the evidence collected by the commission were numerous examples of Europeans purchasing land from Maori, with both parties acting in good faith, yet unwittingly infringing some section of the complex land law. This made the transactions void or incomplete.⁷¹ The commission recommended that a special

67. AJHR, 1884, sess 2, G-2, p 5

68. AJHR, 1891, sess 2, G-1

69. Ward, *East Coast Maori Trust*, p 54

70. Ibid

71. Ibid, p 55

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court be set up to examine past transactions and to validate them if they were made in equity and good conscience.

The Native Land (Validation of Titles) Act 1892 set up the new court. The Validation Court could, upon application by a European or Maori, enquire into the right title and interest of the claimants in a land transaction. It could decide the owner in a disputed claim, order a partition of a Maori block if that would settle a dispute, settle claims to past, present or future rights of occupation, determine the amount of rents or other charges accruing on native land, settle contracts and validate any such contract, deed, or agreement involving native land.

The very wide jurisdiction of the Validation Court soon made it a popular tribunal in which to settle claims to land where there was any doubt. A Validation Court order was a short-cut to the securing of a title or claim sound in law. Not only was the court called upon to determine disputes in many transactions dating from the 1870s and 1880s, but it became standard practice in many areas, and especially on the East Coast, to refer transactions to the Validation Court.⁷²

In 1895, the Validation Court vested approximately 9930 acres of the Mahia peninsula in Carroll and Wi Pere. This came out of the Tawapata South and North blocks, 6379 acres; Whangawehi 1, 1200 acres; Moutere 1 and 2 blocks, 502 acres; and Nukutaurua, 1849 acres. These were mortgaged by Carroll and Wi Pere, along with others, as specific security lands. This meant that a mortgage was executed over those blocks for a specific portion of the total sum owing to the estates company.⁷³

In 1896, the court vested the inland Wairoa block of Mangapoike, 41,000, acres in Carroll and Wi Pere, and 60,000 acres of the Tahora 2 block, which was indebted to the bank, was made over to Carroll and Wi Pere. At the same time the court validated Tahora 2F, section 1, 8095 acres, as Crown land. It appears to have been the practice of the Crown's land purchasing agents, during the 1890s, to buy up lots of individual small shares in a block then apply to the Native Land Court to have the Crown's interests defined. A part of the block would then be partitioned off and granted to the Crown in satisfaction for the shares it had purchased.⁷⁴

By 1897 the trustees controlled 222,094 acres of East Coast land, of which approximately 110,930 acres was in the Wairoa district. Carroll and Wi Pere tried to farm or lease the land under their trust but they were unable to without finances and they were powerless to borrow. As Ward said, no private source in 1892 would lend money to Maori.⁷⁵ Meanwhile the mortgage of the trust estate kept rising so they were forced to sell some of the land. With the authority of a court order of 1895, parts of Nukutaurua and Moutere 1, about 3432 acres, were sold to J C Ormond.⁷⁶ The Ormond family were eventually to acquire most of the Mahia peninsula, either from the trust or by direct private purchase.

Carroll and Wi Pere were not business men and they came in for much criticism. Their inabilities were seen as yet another example of crooked lawyers and land

72. Ibid, pp 55-56

73. Ibid, p 57; Mahia commission, correspondence and notes, MA, 94/3

74. See for example Kahaatureia, Wai 192; see also Cathy Marr's report on the Rohe Potae for more on this

75. Ward, *East Coast Trust*, p 58

76. Ibid, p 59; MA, 94/3

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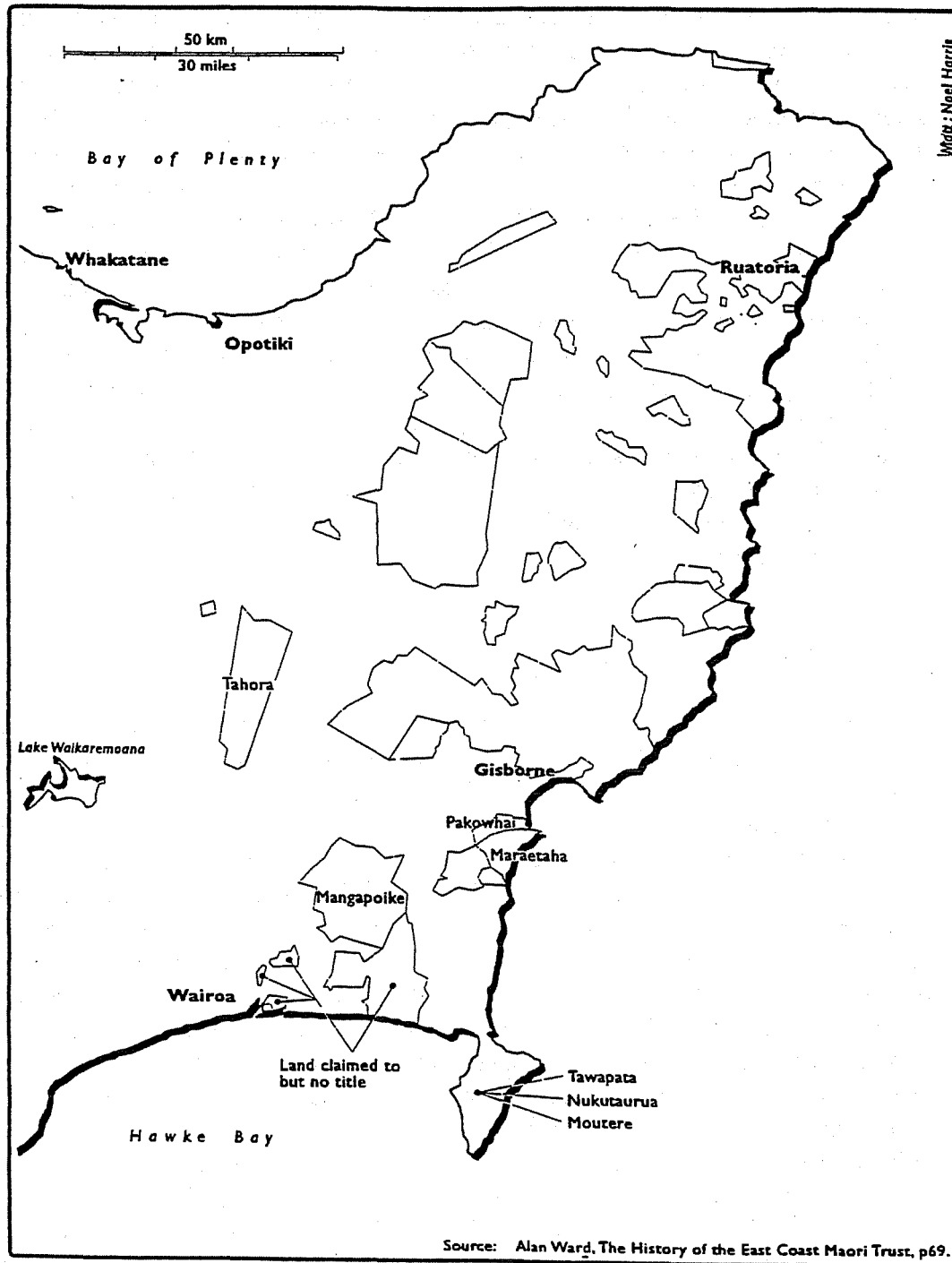


Figure 6: Land affected by the operations of the New Zealand Native Land Settlement Company. Source: Alan Ward, *The History of the East Coast Maori Trust*, p 69.

agents. But Carroll and Wi Pere had tried their best, they had just been hampered by their lack of capital and their inability to borrow. In 1901, with the debt on the trust lands mounting higher and higher, the Bank of New Zealand informed them that it would have to sell land if the mortgage was not promptly paid. January 1902 was fixed as the deadline. Rees then went into action to save the land. First he obtained an injunction in the Supreme Court restraining the sale. Then he secured the support of the chairman of the directors of the Bank of New Zealand, Frederick de Carteret Malet. Malet approached Sir Joseph Ward, the Acting Premier, and asked him to sponsor a bill which would place the Carroll–Wi Pere Trust estate in the hands of a responsible body with power to develop the estate, take out fresh mortgages, sell and lease land if necessary and pay the bank mortgage. This course would, said Malet, bring less hardship on the Maori owners, and also offer the bank a surer return of its money than would a mortgages sale, which was always an uncertain method of retrieving investments. Ward agreed and the East Coast Native Trust Lands Act 1902 was passed. The Carroll and Wi Pere trust was dissolved, Carroll had only taken on the responsibility reluctantly anyway, and a new statutory trust was established under the Act.⁷⁷

4.8 THE EAST COAST TRUST

The prime purpose for which the East Coast Trust Lands Board was set up was to rid the lands of the Carroll–Wi Pere trust from debt. The men appointed to the board were John Harding, businessman, John McFarlane, a farmer, and Walter Shrimpton, a farmer and an active local body councillor. The board was expected to have a short history, merely paying the bank debt, returning the remaining land to Maori and then dissolving itself. To do this efficiently it had to contemplate the sacrifice of some of the land. Under the terms of the 1902 Act all lands held by Carroll and Wi Pere in trust were vested in the board. In January 1904, it sold 31,000 acres comprising the Ohakuatui 2 block (Gisborne), 10,000 acres in Tahora 2 and sections of the Paremata (Tolaga Bay) and Maraetaha block. In 1905, another 9000 acres, mostly in the Tawapata North and Moutere blocks of the Mahia peninsula, was sold. In the same year the debt to the bank, assessed at £159,029, had been paid.⁷⁸

The approximately 187,000 acres which remained in the trust estate were subject to fresh mortgages to new creditors, standing at £21,080 in 1905. These mortgages lay most heavily on the Wairoa land, the Mangapoike and Tahora blocks. In addition the board, having made reserves for the Maori owners, leased 3000 acres in the Paremata block at Tolaga Bay, nearly 23,000 acres of Mangapoike and 18,000 acres of Tahora. The rentals from these promised to yield a steady return to reduce the remaining mortgages on the estate.⁷⁹

77. Ward, *East Coast Trust*, pp 88–95

78. *Ibid*, pp 98–100; MA, 94/3

79. Ward, *East Coast Trust*, p 101

Alienation through the Native Land Court

The board, once having completed its task, was to be dissolved. But it informed Parliament that, since some blocks in the estate had borne more than their fair share of the cost of clearing the debt to the bank, an adjustment of accounts between the separate blocks would have to be made. Until this had been carried out, the remaining lands in the estate should be administered by an authority responsible to Parliament.⁸⁰ The Maori Land Claims Adjustment and Laws Amendment Act, 1906, section 22, provided for the establishment of an East Coast commissioner to handle the trust lands in place of the board. John Harding of the board became the first commissioner, but after a few months of office, he died, and T A Coleman, an accountant of Gisborne, was appointed commissioner.

During Coleman's period the nature of the East Coast Trust underwent several changes. First, it passed from being a short term operation under a board of financial salvage experts, to a long term trust under a single administrator with more general duties. Second, the remaining land was not to be handed back to Maori, but was to be subject to an adjustment of accounts within the trust over a long period. The third change arose when the commissioner obtained the power to farm the land as well as develop it for sale and lease.⁸¹

The long term adjustment of accounts meant that the land remained in the hands of the East Coast commissioner until 1953.⁸² This was a complex necessity which Maori, without financial and accountancy experience, did not understand and resented. Throughout its 47 year administration there were repeated protests against the operation of the trust.

Part of the protest was that Maori wanted assistance to farm the land themselves but the East Coast commissioner only had the right to farm land for them, not to assist them in farming for themselves. In 1906 owners in the Mangapoike block wrote to the commissioner seeking aid in developing their land for farming. They were not very happy when the assistance took the form of developing the land, leasing it, appointing Pakeha managers and shutting the Maori out from their own attempts at large scale farming. In 1919 they petitioned Parliament, praying for an adjustment of relative interests and boundaries in the Mangapoike block.⁸³

Meanwhile Coleman had to sell some more blocks which were apparently a drain on the trust's finances. This included 980 acres of Whangawehi 1A in 1911 and 7000 acres of Tahora 2 in 1920.⁸⁴ These sales, along with others, made Coleman a very unpopular man with Maori and it was at this stage that Coleman died in 1920 and a new man took over the administration of the trust lands.

The next East Coast commissioner was Judge Rawson of the Native Land Court. He remained commissioner until 1933. He worked in Wellington and rarely visited Gisborne so John Harvey, Registrar of the Native Land Court at Gisborne, was appointed the local agent. When these two took over, the external debt of the trust in 1921 was £118,529. They decided to sell more land. This included more land in Whangawehi 1, a block on Mahia which was leased but not paying its expenses.⁸⁵

80. *Ibid*, p 102

81. *Ibid*, p 103

82. See Ward, *East Coast Trust*, pp 103-105 for more on this

83. *Ibid*, pp 106 and 115; see AJHR, 1919, I-3, p 16

84. Ward, *East Coast Trust*, p 119

Rawson and Harvey fought hard to reduce the overdraft and pay off the mortgages which had accumulated during Coleman's time. This was at a time when New Zealand was experiencing its worst depression. It became clear that farming paid better than leasing, so under Harvey's direction the trust began to farm more land. As the old 21 year leases came up for renewal during these depression years, many of the lessees chose to take compensation for the improvements rather than renew the lease. Harvey found capital, paid compensation to the retiring lessee, bought up stock and rebuilt the farms, if necessary. The expenses entailed in this, however, along with the diminished return from farm produce in depression years, meant that he was unable to reduce the mortgages and external debt which lay over the trust. But Harvey was able to build up a well stocked, well equipped set of stations. In 1929 there were 19 farms employing 29 permanent hands and 83 casual workers.⁸⁶

Despite Harvey's good work though, Maori protest did not diminish. In 1924, and again in 1929, Hune Hukanui and 87 others petitioned Parliament seeking the re-vesting of Tahora 2C1 and 2F in its owners. They complained that they were receiving no benefit from their land.⁸⁷ Also in 1929, Puhara Timo sought a statement of accounts on the money being paid out by the trust on Mangapoike A and a guarantee that the land be made inalienable.⁸⁸ Te Haenga Paretipua and 24 others of Wairoa sought relief in connection with their rights in the same block.⁸⁹

Maori objections were based not so much on the adequacies or otherwise of the trust itself, but on a growing desire to be farmers themselves. After years of political agitation, Apirana Ngata, member for Eastern Maori, and others, had at last convinced the nation's representatives in Parliament, that the Maori race was not a dying race, that it was reproducing vigorously, that it was very anxious to have its remaining land left to it, and that it should be helped to help itself by occupying that land usefully. That help took the form of Native Lands Development schemes, which were, in Ngata's words, to train Maori 'to be efficient farmers in the course of developing their lands and to assist them when they settled down to the business of farming'.⁹⁰ No longer were Maori to be seen as fit only for casual labour.

Maori responded enthusiastically to Ngata's call which saw a heightened interest in their land. That interest translated into an increased demand by Maori for the re-vesting of their land, despite the good work of the trust. Agitation by Maori for the return of their land stepped up during the years 1934 to 1941, under the administration of J S Jessep. These were the years when the trust moved into a period of greater and greater prosperity.

Jessep farmed land near Wairoa and in addition had taken part in salvage work on behalf of the Bank of New Zealand, notably at the Waingawa freezing works near Masterton. He was a director in various companies. He had been largely instrumental in setting up the New Zealand Meat Board in London, on behalf of the

85. Ibid, p 123

86. Ibid, p 131

87. AJHR, 1924 and 1929, I-3

88. AJHR, 1929, I-3

89. AJHR, 1930, I-3

90. Quoted in Ward, *East Coast Trust*, p 135

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New Zealand Government, and was a member of the Unemployment Board during the depression.⁹¹

Jessep's policy was to spend money, lavishly some thought, on building up the farms to increase the revenue of the trust. As well, to increase the prestige of the trust, he built an office building, employed salaried officials and bought cars for the staff. Maori naturally resented this, especially when they appeared to be getting nothing out of it. During the years 1908 to 1932, the beneficiaries had been receiving dividends from the trust. Between the years 1921 to 1932, dividends of £92,423 had been paid to 4785 beneficiaries, some of whom had come to rely on them.⁹² Under Harvey the trust had ceased to pay dividends to Maori owners, on account of the need to save money during the bad years of 1932 to 1934. Jessep on taking office did not resume a steady payment of dividends. Instead, he said, to hasten the day when the trust could be wound up, all the profits from the stations should be put back into development of the land in order to make it more productive, or should be applied to build up a reserve for each block whereby all the debts of the trust could be paid off. The calls for the return of the land increased.⁹³

Jessep's problems were compounded by the fact that he had taken little trouble to explain the workings of the trust to the beneficiaries. His inability to communicate with the people on whose behalf he was working, led to a commission of inquiry in 1941, to examine the financial situation of the trust and to see if any changes in the mode of administration were necessary. The commission consisted of Ngata, Chief Judge Shepherd of the Native Land Court and Jessep himself. Although the commission never reported as such, the sittings of the inquiry, according to Ward, served a useful purpose. It brought all the Maori into contact with the administration of the trust and enabled the two sides to listen to each other's point of view. The Maori owners learnt that a creditor block could not be released when all the mortgages and finances of the trust hinged upon it and why dividends were not being paid. Maori agitation against the trust after 1941 for the most part died away.

By 1947 the trust had developed and advanced in prosperity to an impressive degree and the way was now open for a new cooperative system of administration. In September 1948, Jessep, Turi Carroll, a nephew of Sir James Carroll, Kingi Winiata and other Maori met the Minister of Maori Affairs in Wellington. There was a need, they said, for a consultative committee of able Maori, preferably with farming or business experience, to meet regularly with Jessep. The committee could place the interests of the people squarely before the commissioner. At the same time the committee could learn the major problems of the management and finance of the trust, in preparation for the day when they would have to handle the land themselves. The idea was not to replace the commissioner, but to work with him on matters affecting the people.⁹⁴

The new body held its first meeting in April 1949 and adopted the title of the East Coast Maori Trust Lands Council. Turi Carroll was its first chairman. The council

91. *Ibid*, p 140

92. *Ibid*, pp 131-132, 152

93. *Ibid*, pp 151-153

94. *Ibid*, pp 160-161

was given statutory form and authority under section 28 of the Maori Purposes Act 1949. The powers of the council were largely consultative, the commissioner was to submit all important matters to it and give heed to its advice. But the council was empowered, subject to the approval of the Minister of Maori Affairs, to make grants or donations to needy Maori or to charitable causes. In addition they were ensured a share in the discussion of the trust's finances by the requirement that Jessep must secure their consent to any increase in the limit of overdraft secured by the trust. Furthermore the council could recommend people to fill vacancies in the trust's staff and to fill the office of East Coast commissioner, if it should become vacant.

The council took up its work with great pride. Problems arising in the administration were thoroughly discussed and the council drew up lists of names of persons who were entitled to receive the grants in aid of education, which the trust was now paying. The council also facilitated discussion between the beneficiaries and the Minister of Maori Affairs on the winding-up of the East Coast Trust.

Jessep's achievement was to take a debt-ridden business and turn it into a rich and highly developed farming enterprise. In 1936 the East Coast Trust Lands made only £7,535. Under Jessep, and thanks to the steady rise in the price of wool, fat stock and store stock after the second World War, there was a rapid increase in profits from the trust's farms. By 1947 the East Coast Trust Lands made £60,597. When the wool boom sent profits soaring they made £105,600 in 1950 and £356,040 in 1951.⁹⁵ But perhaps his greatest achievement was to save the land under the trust. There was no question now of selling any more land; all the land was to be handed back to the owners debt-free and in full production.⁹⁶

Jessep had his detractors. The aggregation of land under Jessep when leases expired after World War II increased the size of the trust to the extent of provoking suspicion and resentment in the district. The local Federated Farmers for one distrusted the economic power accumulating to Jessep by the number of stations he controlled. Most resentful, however, of the development of the trust were those who had held leases of its land. They had frequently done well on the farms and resented that the leases were not renewed and that the land was soon to be return to the Maori people. Many lessees voiced the argument that the Maori would be better off receiving a steady return from the rents paid by European lessees, rather than farming it themselves.⁹⁷ This probably had more to do with European attitudes towards Maori farming, than to a real concern for what was best for Maori.

Despite his detractors though, the trust in the last years of Jessep's life was moving into a period of excellent harmony between managment and beneficial owners, and into increasing prosperity. When Jessep died in November 1951 the winding up of the trust was about to begin.⁹⁸

This phase was supervised by Frank Bull, a Gisborne accountant. He took office, with the full confidence of the East Coast Trust Council, as deputy commissioner. In 1946 the Government, knowing that the trust lands had paid most of their debts, and suspecting that the time was approaching when much of the land could be

95. Ibid, p 163

96. Ibid, p 164

97. Ibid, pp 169-171

98. Ibid, p 172

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returned to Maori, had the finances of the trust investigated by a selected accountant. The inquiry revealed that the principal security debt and the mortgages had been paid off but that some of the debtor blocks were not yet producing enough to pay what they owed the trust, and to stand on their own feet upon becoming independent. The deputy commissioner kept a close eye on the condition of the weaker blocks and in 1953 informed the Government that these would now be strong enough to pay their debts, if any, and support themselves outside the trust.

Part one of the Maori Purposes Act 1953 directed the Maori Land Court to determine the beneficial owners in all the blocks in the trust, and directed Bull to liquidate his trusts, apportion the liabilities and assets of the estate, and to arrange for the necessary adjustment between various blocks. The land was to be placed in the hands of corporate bodies of owners as soon as this had been done. In July 1954 the lands and assets of the trust were handed over to 24 new bodies corporate, and the management committees, elected by the owners in these bodies, commenced to direct the farming of them.⁹⁹ Today those farms are still in Maori ownership.¹⁰⁰

Today the amount of land still remaining in Maori ownership in the Wairoa district is approximately 14,900 hectares (see table 4.2 for a list of those blocks).¹⁰¹ Admittedly, not all of these lands were part of the East Coast Trust lands, but the trust did perform a valuable part in retaining land for Maori. As well, by the material development of one quarter of a million acres of land the East Coast Trust has made a very important contribution to the evolution of Maori farming. To be sure it had sold some land, but as Ward says, 'The Maori loss would have been far greater if the Trust Board and East Coast Commissioner had not been established'.¹⁰² Their example demonstrates what could have been done if the Crown had really been committed to retaining land in Maori ownership and control.

99. *Ibid*, pp 180-185

100. For example, the proprietors of Tahora 2F2 (Papuni Station), the proprietors of Tawapata Station (Onenui Station)

101. Gisborne Maori Land Court, this does not include the Tahora block

102. Ward, *East Coast Trust*, p 110

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Table 4.1: Acreage of land passed through the Native Land Court by 1886 (these will not be all the blocks passed through the Native Land Court till 1886, they are just the ones this author has found in the time available to her). Source: Wairoa minute book 1, AJHR, 1880, C-3; AJHR, 1881, C-6, G-8; AJHR, 1886, G-15; AJHR, 1891, sess 2, G-10.

Block	Acreage	Block	Acreage
Awatere		Pihanui 2	1331
Hangaroa Matawai	3269	Potaka	
Hereheretau	8820	Ruarakaiputara	298
Hinewhaki	229	Takararoa	2707
Huramua 1, 3	1894	Taumataoteo	425
Huramura 2	187	Taupara	693
Kahuitara 1, 2		Tauwharetoi	50,389
Kairangi	418	Tawapata North	6444
Kaiwaitau	1371	Tawapata South	10,408
Kauhoroa 1	225	Te Aranui	453
Kauhoroa 2	440	Te Kiwi	133
Kauhoroa 3	100	Te Koutu	
Kauhoroa 4	458	Te Mahanga 1	2735
Kinikini reserve	115	Te Mahanga 2	932
Kopuawhara	6943	Te Mahanga North	3293
Mangaaruhe East	3878	Te Mahanga South	1120
Mangaaruhe West	2267	Te Matuku	2107
Moutere 1, 2	854	Te Rato	301
Ngarueteipo	75	Te Rewa	194
Nukuroa	10	Te Whakaki	1569
Nukutaurua	3432	Te Whakapau	281
Ohuia	1068	Te Wharepu	91
Opoho		Tuahu	9250
Opoiti		Tukemokihi	
Opoutama	167	Tutaekuri 1	12,542
Orangitirohia	211	Tutaekuri 2	629
Orere	28	Tutaekuri 3	
Owhio	5667	Tutuotekaha	

Alienation through the Native Land Court

Block	Acreage	Block	Acreage
Paeroa 1	1495	Waihau	13,800
Paeroa 2	1850	Waimana	
Paeroa 3	236	Wairau	298
Pakowhai	600	Whakaongaonga	12,418
Paritu	12,142	Whangawehi 1	3071
Pihanui 1	6061	Whangawehi 2	1112
Total	203,534	Total	203,534

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Table 4.2: Land still in Maori ownership in the Wairoa district. Source: Gisborne Maori Land Court

Block	Area (hectares)	Block	Area (hectares)
Te Apiti Reserve	5.7541	Patutahi survey district, section 91, block VII	36.0675
Aranui	7.7293	Poutaka	5.3159
Aruhatoronga A	15.2591	Pukewhinau	117.2197
Hereheretau (188 subdivisions)	2027.3491	Te Puna reserve	79.3184
Hinewhaki West	33.9935	Putere	935.8647
Hinewhaki West or 2 section road lines	1.5135	Te Rara (Maori reserve)	80.9371
Hurumua 1, 3	2.208	Te Rato (68 subdivisions)	74.5024
Iwitea	14.2265	Te Rewa	33.6493
Kaha-a-Tureia	86.6684	Rimuroa 6	26.8837
Kahuitara	48.6835	Ruarakaiputara	48.3523
Kaiuku PA	10.6988	Ruawharawhara (cemetery)	4.0468
Kaiwaitau	564.0199	Takanga reserve	6.2726
Kaiwaitau road line	6.1891	Takararoa 3	4.0468
Kauhoroa	16.43	Tapatangata 1	4.6361
Te Kiwi	35.2303	Tapatangata 2	4.6361
Te Kiwi Urupa	0.4046	Taumataoteo	95.3479
Kopua A2	10.9416	Taupara	112.6601
Mahanga 1	424.8252	Tawapata North 1, 2	113.8568
Mahanga 2	312.7231	Tawapata South	6.1107
Mahanga road line	2.0461	Tuahu	227.4262
Part Mahia rural section 1, 2, lot 11, DP 4091	7.9419	Tukemokihi	43.0507
Part Mahia rural section 4, 17, 18, block v, Mahanga survey district	9.3077	Umumango	19.7941
Section 247 township of Mahia	0.1775	Lake Waikaremoana (Ngati Kahungunu)	
Surburban section 7, class 2, Mahia	1.2444	Lake Waikaremoana (Tuhoe)	
Mokau reserve	11.5335	Waikokopu	41.4032
Moutere 1	11.9431	Wairau A	14.164

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Block	Area (hectares)	Block	Area (hectares)
Ngaiapu	8.1948	Wairau B	104.402
Ngamotu	124.276	Wairoa military settlement	16.7121
Ngamotu road lines	9.1696	Whakaki	85.8832
Ngaruetepe	8.6037	Whakaongaonga 2G1	159.3598
Nuhaka (534 subdivisions)	2838.3607	Whakapau	28.5015
Nuhaka survey district, section 7, block VII	1.0453	Whangawehi 1B	202.7259
Lot 8, DP, 1955, block IX, Nuhaka survey district	0.1011	Wharepu	12.297
Lot 29, DP, 1599, Nuhaka survey district	0.1011	Whataroa (Urupa)	0.1011
Nukuroa A and Hinewhaka West 36A	2.0234	Whataroa 1	17.3003
Nukutaurua	337.588	Whataroa 2, 3	379.671
Ohiwa and Pukewhianu			
Ohiwa	270.7347	The properties of Tawapata Sta- tion (Onenui Station)	
Opoho	24.2241	Tawapata South 8 and Waikawa blocks	2282.1993
Lot 1, DP, 1599, part section 2, block VI, Opoiti survey district	131.1181		
Lot 2, DP, 1599, part section 2, block VI, Opoiti survey district	80.2289	The properties of Te Whakaari	
Lot 3, DP, 1599, part section 2, block VI, Opoiti survey district	40.3395	Ruarakaiputara 2	19.5842
Opoutama MR	54.6131	Whakaongaonga 1	367.5557
Oraka	208.6379	Mangapoike B block, section 2, 3, block 1, Nuhaka North survey dis- trict	156.6393
Orangitirohia	1.5794		
Paeroa 1	36.4683	The properties of Whakaki 2N block	
Paeroa 2	367.028	Whakaki 2N	333.5494
Pakowhai 1 (reservation)	0.4264	Whakaki 2M (cemetery)	12.0419
Pakowhai	25.1749	Whakaki 2L (cemetery)	6.4319
Panikau A2	148.9898	Whakaki 2r2	13.4811

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Block	Area (hectares)	Block	Area (hectares)
Paritu 2A	17.5203	Whakaki 2G2B	16.5491
Paritu 3	8.0937	Hereheretau B 1	108.5189
Paritu survey district, section 2, block 1	0.4942	Whakaki 2F2B	19.8296
Patekaha Island reserve	7.8914		
Total area	14900.9656	Total area	14900.9656

CHAPTER 5

PUBLIC WORKS TAKINGS

5.1 PUBLIC WORKS TAKINGS OF MAORI LAND

Land in the Wairoa district was also alienated through public works takings. This chapter is based on a general report on public work takings of Maori land, not specific to Wairoa lands.¹

The major issues arising from public works takings can be grouped according to the various processes involved. This includes the actual taking process, such as the decision making and motivations in deciding on the land to be taken, and the various interests taken into account; as well as the legislative measures and protections involved such as notification, entry of surveyors and opportunities for objections. Issues also arise from the process of compensation, including for example, how this was to be determined and distributed. Finally, issues arise from the disposal of land if it is never used for the purpose taken or is no longer required.

The Public Works Lands Act 1864 was the first to specifically enable the Government to take customary and Crown granted Maori land for public purposes. It was passed in wartime, when Maori were still excluded from parliamentary representation. It was also passed shortly after the New Zealand Settlements Act 1863. This Act provided the legislative basis for the confiscation of Maori land. It was intended as a punitive measure against those Maori who allegedly were resisting the imposition of British rule. The passing of these Acts in close formation helped forge a long-standing Maori view that public works takings and land confiscations were a closely related process.

The 1864 definition of 'public works' included those works considered to be nationally important at the time, particularly for a colony in a state of warfare. They included works associated with roads, bridges and ferries. Works associated with the electric telegraph were added in 1865.²

In later years, the authority to take Maori land for public purposes was progressively extended to include provincial councils and successor local authorities, as well as central government. The powers of local authorities were also extended to include customary as well as Crown granted Maori land.³

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1. Cathy Marr, 'Public Works Takings of Maori Land, 1840-1981', Report for the Treaty of Waitangi Policy Unit, 1994
 2. Ibid, pp 48-49
 3. The 1864 Act provided for central government to take Maori land whether customary or Crown-granted, for public work purposes, while provincial councils were still excluded from authority over customary land.

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The definition of 'public work' also continued to be greatly extended to meet the needs of settlement. Public works came to include railways, river, harbour and other water works; irrigation and drainage works; and also land for the purposes of recreation, public domains, reserves and scenery preservation. Works also included those associated with land settlement, soldier settlement, noxious weeds, mining, quarries, hydro and geothermal works, forestry, aerodromes, defence, town planning, motorways, Government buildings, river and soil conservation, education, land development, and subdivision and housing programmes. A wide variety of local authority works were also included such as the provision of rubbish dumps, local roads and local domains.

As noted previously, by the 1870s the Government had decided to embark on a massive programme of immigration and public works, aimed largely at opening up the North Island for European settlement. The Immigration and Public Works Act 1870 was central to this programme of 'bloodless conquest'.⁴ A major part of the Act was concerned with the construction of roads in the North Island. This was 'an essential element' in the pacification of the island. Another 'essential element in the restoration and maintenance of peace' would be:

the employment of the Natives themselves for this purpose, as great power will thereby be given to restrain them from falling into evil habits or joining hostile tribes who may wish to attack the European. It will at the same time open up the country, and also enable the settlers to form settlements in the interior, and if, unfortunately, we should again fall into war, it will greatly facilitate our defensive or aggressive operations, as the case may be.⁵

In 1874, the resident magistrate, Frederick Ormond, reported that the Public Works Department was furnishing employment for many of the Wairoa Maori. This had resulted in 'an excellent bridle' being rapidly formed inland to Poverty Bay, while a good road to Waikaremoana was established, making travelling throughout the district easy.⁶

A further Act in 1876 vested all roads being used by the public in the Crown. This meant that many routes that Maori had allowed Europeans to use on a regular basis, including those from pre-European times, were now declared to be public roads vested in the Crown. 'Road' was defined as a public highway, whether a carriage way, bridle path or footpath. In many cases no payment had ever been made for these and it seems clear that Maori had often thought they were only allowing rights of passage, not rights of land ownership. There is evidence that this section of the Act was used to simply take roads without compensation if it was clear that the public had been allowed to use them at all prior to its passage.

For example, in the Wairoa area, an ancient track lying between the Awatere block and the north bank of the Wairoa River was used for many years as a public road when the district was first being settled. At the time of the investigation of title for the Awatere block in 1867 this strip of land had been purposely excluded by the

4. *Ibid*, p 72

5. Marr, p 72; NZPD, 1870, vol 9, p 181

6. AJHR, 1874, G-2, no 14

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applicants.⁷ It was still customary land when it was taken in 1916 for railway purposes. There had been agreement that the old road would be incorporated into Maori land blocks and while this had happened in the adjoining Orangitirohia block, it had never been carried out for this block. When later action was taken to investigate the situation regarding compensation, the Ministry of Works refused compensation on the grounds that the taking merely tidied up the situation and the road was already Crown land. When the proclamation had been made, the then Public Works Department relied on sections 79 and 80 of the 1876 Act (as substituted by sections 101 and 102 of the 1908 Act) in an effort to have any application for compensation declared ultra vires and struck out. As the 1876 Act declared that all existing roads used by the public were vested in the Crown, the department held that this road was therefore already legally public land in 1916.⁸

Settler interests invariably took precedence over Maori rights. In terms of roading, it became a very common complaint, for example, that where local authorities had a choice they tended to take Maori land before European-owned land. In cases where European land adjoined Maori land, the road was often taken only from Maori land, the European's land remaining untouched. In 1888 this issue was freely acknowledged by the Minister of Works. The member for Western Maori thought that where roads were for the benefit of both races, the land 'should not be taken entirely at the expense of the Natives'.⁹

The Government's remedy appears to have been section 95(2) of the Public Works Act 1894 that when a road was laid off between lands owned by both Maori and European, the road was to be taken equally from both 'where practicable'. The Native Land Court Act 1894 included the same provision but added 'provided that the Governor shall have the right to lay off or take roads on or from the lands of both owners' (s 72). According to Marr, this seemed to acknowledge that the legislation itself encouraged discrimination against Maori land.¹⁰

For example, the construction of a road in the Ruakituri Valley to give access to settlers on Crown lands cut right through the middle of Hawea Tipuna's cropping paddock. In 1906 he wrote to James Carroll, the Native Minister, asking if the road could be altered a few chains as this was the only part of his grounds he could use for cropping purposes. As any alteration was likely to effect only one settler, a Mr McKenzie, Tipuna had obtained his consent to the proposal, who showed it by countersigning Tipuna's letter.

The letter was referred to the Department of Roads, which missed entirely whom the letter had come from. Because it had been countersigned by McKenzie, they assumed the letter had come from him. They referred the letter on to the district road engineer in Napier, who replied:

Concerning Mr McKenzie's application I may say that I do not see any reason why a deviation should be made, as it cannot possibly affect the land he is occupying. The

7. Wairoa minute book 1

8. Marr, p 75; East Coast Main Trunk Railway, MA 1, 5/5/70

9. Marr, p 64; NZPD, 1888, vol 61, p 609

10. Marr, p 65

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road for practically its whole length passes through Native land, of a poor quality and certainly not suitable for cropping purposes.

Mr McKenzie was politely told that his request had been declined because 'the Native land adjoining is of poor quality and certainly not suitable for cropping purposes'.¹¹

Public works legislation in the period of the 1880s to the 1920s largely reflected Government support in encouraging settlement and consequently the marginalisation of Maori. The works involved in breaking in the country had an enormous impact on Maori interests. Bush clearance, swamp drainage and river and harbour works helped destroy traditional sources of food and other resources, and roading access helped make new areas of Maori land desirable for settlement. Ballara and Scott cite a petition in 1915 regarding a roto tuna (eel lake) called Te Manga at the mouth of the Wairoa, where inanga (whitebait) and kokopu (a fresh water fish) and other eels and fish were caught.¹² The petitioners claimed that they had eel weirs near the beach called Tahuna-mai-Hawaiki (where Tapuwae was buried: see chapter 1) and where their parents had come for many years to collect driftwood, 'but now in our days the Pakehas come and turn us off, and say to us that the said beach and the said lake (lagoon) are now theirs'.¹³ The Native Under-Secretary told the Native Affairs Committee that the area referred to was 'evidently a portion of the Lower Wairoa Block'. He recommended that the issue be referred to the Lands Department, 'as it is understood that Harbour works are progressing in the locality, which may necessitate reclamation of the lagoon referred to'.¹⁴ The Native Affairs Committee made no recommendation on the petition.¹⁵

Local authorities and central government were involved in taking Maori land for public purposes. Although local authority takings generally tended to be individually smaller than the large takings involved in some central government projects, there were apparently a great many of them over the years for a variety of purposes. Local authorities took land for works such as rubbish dumps, secondary roads, sewerage services, local quarries, public domains, and various recreation reserves. Although the Crown is generally not regarded as including local authorities, this separation is often difficult with public works takings. In many cases, for example, Government departments such as the old Public Works Department took land on behalf of local bodies. In other cases the Public Works Department would construct a work such as an airport or road and then hand it over to a local authority to manage.

For example, when land in Tahora 2F2 was taken for a road to provide access for leasehold settlers in the Ruakituri Valley, the taking and formation was done by the Public Works Department who then handed the road over to the Wairoa County Council.¹⁶ At the time, the land was administered by the East Coast commissioner,

11. Ruakituri Valley, Wairoa County, W1, 36/47

12. Ballara and Scott, 'Wairoa', pp 17-18

13. Le 1/1919/9, petition no 142/1915, see Ballara and Scott document bank, pt 3

14. Ibid

15. Ballara and Scott, p 18

16. W1, 35/270

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who was not formally approached about the proposed road until October 1926, over three years after the decision to form a road had been taken.¹⁷ The trust, or for that matter, the Maori owners, had not been consulted about the department's plans, but to benefit the half a dozen settlers, they were expected to contribute to the cost of the road. The commissioner objected to the taking on the grounds that the trust would lose too large an area, have its paddocks interfered with, have to meet the expense of fencing, as well as being expected to contribute one-third of the cost of the road.¹⁸ In the event that the road was to go ahead then he considered that compensation should be paid.¹⁹ This drew forth an indignant response from the Permanent Head of the department who found it inconceivable that the trust commissioner should not only refuse to contribute to a road, which he had never asked for in the first place, but that he even wanted compensation for the land to be taken.²⁰

In the end the commissioner advised that if the department was to take a shorter, alternative road, resulting in less land being taken, the trust would do the fencing necessary on its farmed lands and make no claim for compensation for the area taken for a road.²¹ This was done and the taking gazetted in the 1930 *New Zealand Gazette* at page 1123, under section 12 of the Land Act 1924. No consultation with the beneficial Maori owners appears to have taken place. One is left to wonder what the outcome might have been if it was only Maori the department had to negotiate with and not the trust commissioner, with all the weight of the trust behind him.

The same *Gazette* notice also proclaimed pieces of a road passing through subdivision 2 Tahora 2F2 and lot 23, DP 1952, as closed. A handwritten minute dated 17 November 1971 on a copy of the *Gazette* notice raised the possibility of vesting these areas in the Proprietors of Tahora 2F2.²² It is not clear whether this was done.

A claim received by the Waitangi Tribunal, from Charles Cotter on behalf of the owners of the Tahora 2F2 Incorporation, claims that the road for which the land was taken has never been formed and they seek the return of the land.²³ In fact, it appears that the road was formed, if only to a width of 14 feet and unmetalled,²⁴ however there could be a case for returning the land if the purpose for which it was taken is no longer valid. The Tribunal may also have to consider if taking land for the benefit of the settlers at the expense of the Maori owners infringed their rights of rangatiratanga.

At other times the local authority took land itself, often with more regard for the local non-Maori community and for financial advantage, than for the concerns of Maori land owners.²⁵ For example, there is evidence that local bodies used land

17. C J McKenzie, Acting Engineer-in-Chief to the Registrar, East Coast Native Trust, Gisborne, 15 October 1926, W1, 35/270

18. W E Rawson, East Coast commissioner to Permanent Head, Public Works Department, 25 January 1927, W1, 35/270

19. District engineer Napier to Permanent Head, Wellington, 13 July 1927, W1, 35/270

20. Bennett to the Minister of Public Works, 19 July 1927, W1, 35/270

21. *Ibid*, 13 June 1928

22. W1, 35/270, pt 2

23. Wai 481

24. 18 June 1930, W1, 35/270, pt 2

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taking powers for public purposes for a variety of reasons often quite different to those stated in the taking proclamations. This practice was not confined to Maori land and was frowned on by the courts. However there were no real legal restrictions on this and it seems to have been that much easier to get away with where Maori land was concerned. This was apparently because Maori were more likely to lack the means to pursue legal action and were less able to put political pressure on taking authorities. Fragmentation of title and notice problems also often meant owners could be unaware of the taking until it was safely made.

In 1963 for example, the Wairoa Borough Council issued a taking proclamation with the stated purpose being 'to execute a certain Public Work – namely a Borough Depot and yard'. Only two of the nine owners were advised as they were the only two whose addresses were known. And in the event the Maori Affairs department office in Gisborne was informed that:

Although not officially stated by the Council . . . the probable intentions of the Council are to use this strip as a road to open up back land when this becomes necessary.²⁶

As Marr has stated:

Given their experiences with public works takings in the late nineteenth and early twentieth century it is not surprising that Maori often regarded the whole concept of public works land takings as little different than a continuation of land confiscations.²⁷

5.2 FURTHER RESEARCH REQUIRED

The claimants have not provided much information on various public works takings in the Wairoa district. Much more research is likely to be required in this area. A general report may be necessary to provide an overall idea of the amount of land and takings involved and therefore the likely extent of this type of claim in the Wairoa district. This work could be extensive. However, specific examples fitted into the general overall report on public works takings maybe sufficient to substantiate a general case or claim.

5.3 RELEVANT CLAIMS TO DATE

To date the following relevant claims have been lodged:

- (a) Wai 278, which concerns land taken for harbour purposes at Waikokopu;
- (b) Wai 427, which also concerns land taken at Waikokopu for harbour purposes, as well as roading and railway purposes;
- (c) Wai 481, which concerns land taken for a road in Tahora 2F2; and

25. Marr, p 149

26. Memo to Head Office, 21 August 1963, MA 1, 54/19

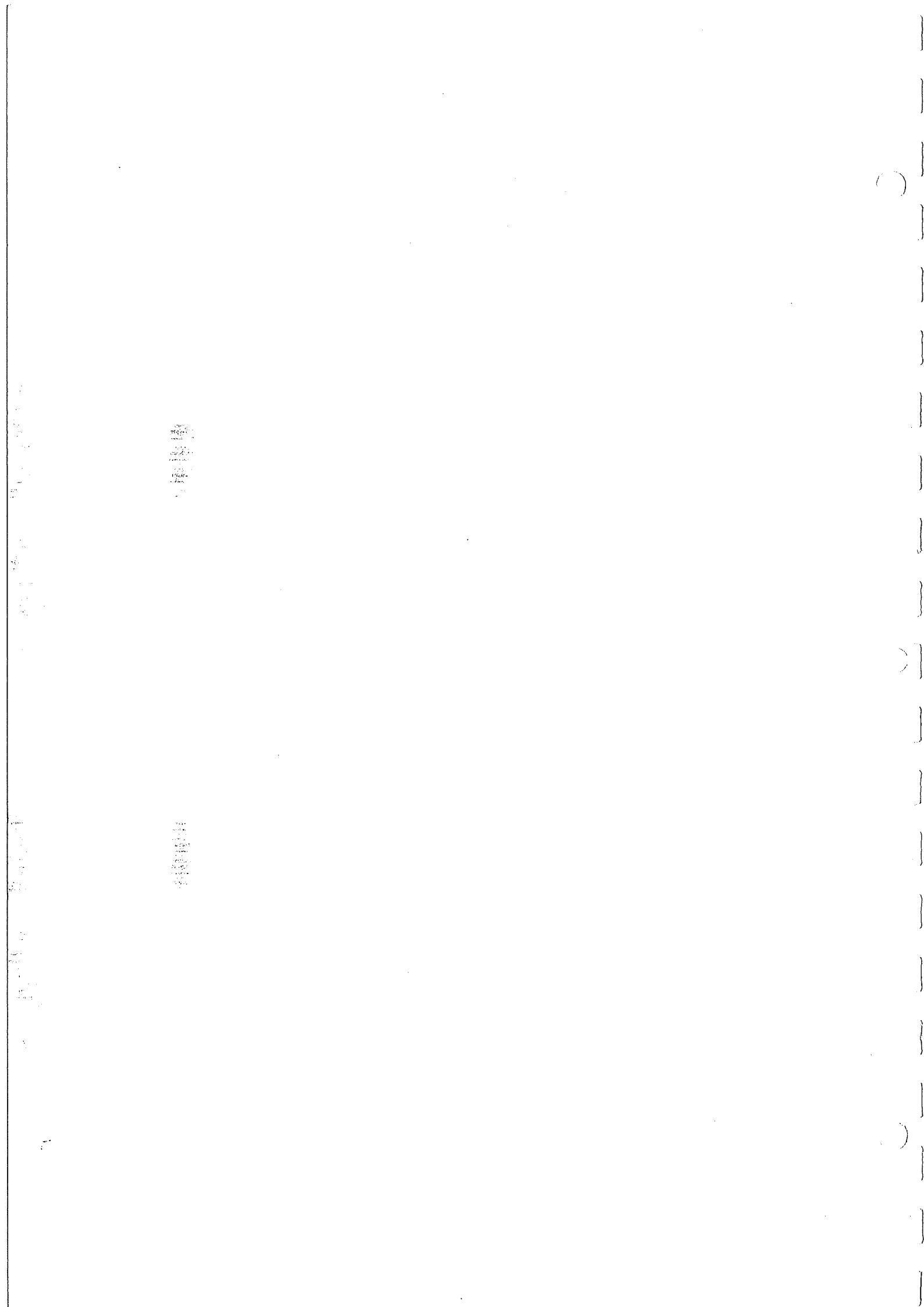
27. Marr, p 114

Public Works Takings

- (d) Wai 519, which includes land at Waikokopu taken for harbour purposes and a gifting for an aerodrome in the Mahanga block.

Although these claims may be small in terms of acres or hectares, they are important when viewed in the context of total land alienation and dispossession. As well, small pieces may be very significant to particular claimants and whanau. The Tribunal has pointed out, the 'smallness or insignificance in area is no impediment to consideration of underlying principles'.²⁸ The principles underlying the issue of compulsory acquisition, where *kawanatanga* overrides the guarantee of *tino rangatiratanga*, lies at the heart of questions about the Treaty relationship between Maori and the Crown.

28. Waitangi Tribunal, *Te Maunga Railways Land Report*, Wellington, Brookers Ltd, 1994, p 69



CHAPTER 6

CONCLUSION

6.1 INTRODUCTION

Before the advent of European settlement in the Wairoa district, the hapu of Ngati Kahungunu controlled over 315,000 hectares, nearly three-quarters of a million acres. Today the amount of land still remaining in Maori ownership in this district is approximately 14,900 hectares. The purpose of this report has been to provide an historical overview of how that land was alienated. While some firm conclusions can be drawn from the available evidence, many others are preliminary, at this stage. This report is released as a draft, in the anticipation that many submissions will be made in response to it. These submissions will, hopefully, help to correct any inaccuracies, and possibly, offer a different perspective, or interpretation, to the events discussed in this report. This report has relied heavily on secondary and official primary sources. Explanations of Maori action, therefore, are taken from the opinions of Europeans, who held their own Eurocentric opinions, and often had strong vested interests to protect. Despite this, a number of strong points can be made about the interactions of Maori and the Crown in the Wairoa district, and the ways in which Wairoa land was alienated from Maori.

6.2 THE PEOPLE

Chapter 1 of this report was mainly drawn from the work of nineteenth- and twentieth-century writers, who wrote down and interpreted Maori oral traditions, and from the research of the historian Angela Ballara. Wairoa Maori have traditionally been labelled as Ngati Kahungunu. While this is correct, it does not fully explain the composition of the people who inhabited the Wairoa district in the early nineteenth century. The people of the region could trace their descent from many different seminal ancestors, including some resident in the area before the arrival of Kahungunu's descendants. The tendency to identify with the iwi Ngati Kahungunu had been reinforced during the wars of the 1820s and the 1830s, but the basic social group, in 1840, was the independent community of chiefs and people. In 1840, or even in 1850, the Europeans arriving in the area did not encounter an established Ngati Kahungunu hierarchy. They found chiefs of differing degrees of status or mana leading various combinations of hapu living as separate communities. The claims before the Waitangi Tribunal today reflect the complex situation of groups and sub-group identities during the early nineteenth century.

6.3 THE CROWN PURCHASES

During the months of October 1864 to the middle of 1865, the Crown bought approximately 179,370 acres from Wairoa Maori. A further 7424 acres were bought in April 1868. With regard to these purchases, some of the issues the Tribunal may need to consider include: the adequacy of the price paid, whether the transactions were adequately understood or consented to by Maori sellers, whether those who sold the blocks were entitled to do so, any failure of the Crown to establish the correct owners, any failure of the Crown to protect the rights of sellers and non-sellers alike.

On the evidence available, it is clear that some iwi, at least, were willing to sell in order to attract a large European population to the area. This was based on a desire to participate in the settler economy, and possibly, for added protection against their former enemies. But the issue remains of whether the purchases were conducted in a manner fully consistent with the principles of the Treaty of Waitangi. It appears that Maori were pressured into selling more than they originally wanted to, both by their desire for European settlement and by the tactics of the Crown's officers. McLean and his officers almost always rejected the Maori vendors' initial asking price and offered very much lower ones. Iwi, it appears, were well aware of the market value of their land but with the Crown's pre-emptive right operating they had no choice but to settle for the Crown's price. Pre-emption was originally instituted to protect Maori from unjust and unhanded private purchases. But it does not appear that the Crown was using the pre-emptive right in a protective sense against unscrupulous settler practice, rather, its officers used it to pressure Maori to sell land for far less than they wanted. It would seem to be a misuse of the pre-emptive power against Maori.

Some of the other practices of the Crown's land purchasing agents may also be subject to criticism. For example, pressuring iwi into selling more than they wanted to; purchasing land from willing sellers in order to put pressure on the rest; and the exploitation of certain situations, like the wars and the threat of confiscation, to push through sales. Also in question was whether the rights of non-sellers were protected. Very few reserves were made in these early purchases. In some cases, no provision was made in the deed for reserves but a reserve was made later, usually though, for an individual rather than for the benefit of the hapu. It may be argued that McLean thought that by purchasing only one side of the river, as in the case of Nuhaka and Wairoa, he was leaving sufficient land for Maori. This view, however, fails to account for those hapu directly affected by the alienations.

6.4 RAUPATU AND POST-CONFISCATION CROWN PURCHASES

Although the causes for the outbreak of war on the east coast have not been discussed in this report, it has been argued elsewhere¹ that a rebellion as such did not take place, and that the Crown's confiscation of land that followed was unjust.

1. Joy Hippolite, 'Raupatu in Hawke's Bay', report commissioned by the Waitangi Tribunal, 1993 (Wai 201 ROD, doc I17)

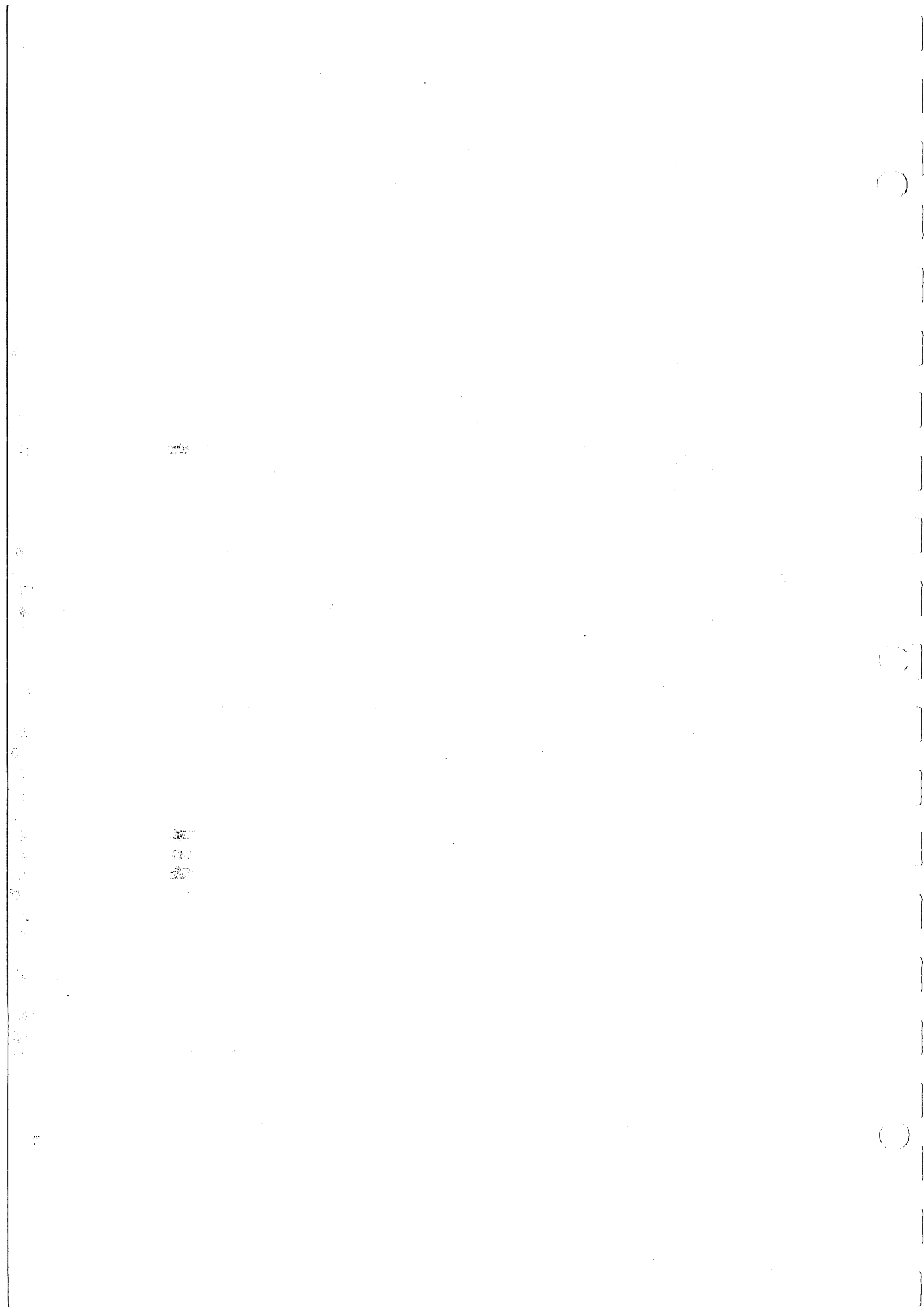
Conclusion

The Crown agreed to return most of the confiscated land to Maori in 1867, retaining 42,430 acres for itself. There were then a number of delays before the Crown got around to returning the land to the 'loyalists'. It then immediately turned around and purchased back 146,080 acres of this land, leaving 10,920 acres for reserves, to be squabbled over by Tuhoe, Ruapani, and Ngati Kahungunu. It has already been argued by the Tribunal that the implementation of the confiscation legislation was unlawful;² in Wairoa, it was completely unwarranted, and may have been in breach of the principles of the Treaty.

6.5 THE NATIVE LAND COURT PERIOD

In the aftermath of the wars and the imposition of British law the Crown failed to protect iwi rights through the operation of the Native Land Acts. This included the land-purchasing activities of the Crown agents who were ready to exploit successive legislative acts which greatly contributed to a process of land loss and dispossession. Some of the major problems of the Native Land Court and direct private purchase included: the court's refusal to award Crown grants to more than 10 owners for a block; the cost of the process, resulting in the alienation of more land; the acquisition of land through fraud; and the acquisition of land through debt. Opinions expressed by concerned Europeans and officials and other persons show that even in the nineteenth century many Crown acts were regarded as contrary to justice and practical alternatives existed, for example, the East Coast Trust. But nowhere has it been proved that the Crown was truly committed to retaining land in Maori ownership and control – in fact, the opposite was the case: the Crown was dedicated to breaking down traditional Maori society. In introducing the Native Land Acts, the Crown began a process of alienation of Maori land that was far more effective and far-reaching than the punitive confiscations following the wars. The tangata whenua of the Wairoa district suffered dearly through the policy and practices of the Crown.

2. Waitangi Tribunal, *The Taranaki Report: Kaupapa Tuasahi*, Wellington, GP Publications, 1996, pp 10–11



APPENDIX I

PRACTICE NOTE

WAITANGI TRIBUNAL

CONCERNING the Treaty of Waitangi Act 1975

AND Rangahaua Whanui and the claims as a whole

PRACTICE NOTE

This practice note follows extensive Tribunal inquiries into a number of claims in addition to those formally reported on.

It is now clear that the complaints concerning specified lands in many small claims, relate to Crown policy that affected numerous other lands as well, and that the Crown actions complained of in certain tribal claims, likewise affected all or several tribes, (although not necessarily to the same degree).

It further appears the claims as a whole require an historical review of relevant Crown policy and action in which both single issue and major claims can be properly contextualised.

The several, successive and seriatim hearing of claims has not facilitated the efficient despatch of long outstanding grievances and is duplicating the research of common issues. Findings in one case may also affect others still to be heard who may hold competing views and for that and other reasons, the current process may unfairly advantage those cases first dealt with in the long claimant queue.

To alleviate these problems and to further assist the prioritising, grouping, marshalling and hearing of claims, a national review of claims is now proposed.

Pursuant to Second Schedule clause 5A of the Treaty of Waitangi Act 1975 therefore, the Tribunal is commissioning research to advance the inquiry into the claims as a whole, and to provide a national overview of the claims grouped by districts within a broad historical context. For convenience, research commissions in this area are grouped under the name of Rangahaua Whanui.

In the interim, claims in hearing, claims ready to proceed, or urgent claims, will continue to be heard as before.

Rangahaua Whanui research commissions will issue in standard form to provide an even methodology and approach. A Tribunal mentor unit will review the comprehensiveness of the commission terms, the design of the overall programme, monitor progress and prioritise additional tasks. It will comprise Tribunal members with historical, Maori cultural and legal skills. To avoid research duplication, to maintain liaison with interested groups and to ensure open process:

Wairoa

- (a) claimants and Crown will be advised of the research work proposed;
- (b) commissioned researchers will liaise with claimant groups, Crown agencies and others involved in treaty research; and
- (c) Crown Law Office, Treaty of Waitangi Policy Unit, Crown Forestry Rental Trust and a representative of a national Maori body with iwi and hapu affiliations will be invited to join the mentor unit meetings.

It is hoped that claimants and other agencies will be able to undertake a part of the proposed work.

Basic data will be sought on comparative iwi resource losses, the impact of loss and alleged causes within an historical context and to identify in advance where possible, the wide ranging additional issues and further interest groups that invariably emerge at particular claim hearings.

As required by the Act, the resultant reports, which will represent no more than the opinions of its authors, will be accessible to parties; and the authors will be available for cross-examination if required. The reports are expected to be broad surveys however. More in-depth claimant studies will be needed before specific cases can proceed to hearing; but it is expected the reports will isolate issues and enable claimant, Crown and other parties to advise on the areas they seek to oppose, support or augment.

Claimants are requested to inform the Director of work proposed or in progress in their districts.

The Director is to append a copy hereof to the appropriate research commissions and to give such further notice of it as he considers necessary.

Dated at Wellington this 23rd day of September 1993

Chairperson
WAITANGI TRIBUNAL

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