

RANGAHAUA WHANUI DISTRICT 9

THE WHANGANUI DISTRICT

SUZANNE CROSS AND BRIAN BARGH

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WORKING PAPER: FIRST RELEASE

WAITANGI TRIBUNAL
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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 Maori loss of land and other resources 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. The text of that practice note is included as an appendix (app II) to this report.

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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At the beginning of July 1993, Suzanne Cross was commissioned by the Waitangi Tribunal to write a broad overview of the Whanganui district. That overview forms part I of this report and covers the years 1840 to 1907.

Brian Bargh

Brian Bargh is a consultant historian and policy analyst. He holds a masters degree in agricultural science and has worked for several years within the Government on issues relating to the Treaty of Waitangi and the settlement of Maori claims. He has extensive experience in environmental science and the management of natural resources.

In September 1994, the Waitangi Tribunal commissioned Brian Bargh to prepare an overview report on the Whanganui district. His commission forms part II of this report and covers the years 1907 to 1990.

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LIST OF ABBREVIATIONS

AJHR	<i>Appendices to the Journals of the House of Representatives</i>
ATL	Alexander Turnbull Library
BPP	<i>British Parliamentary Papers: Colonies New Zealand</i> (Shannon, Irish University Press)
CCJWP	Crown Congress Joint Working Party
ch	chapter
doc	document
fig	figure
fn	footnote
MB	minute book
NA	National Archives
NZJH	<i>New Zealand Journal of History</i>
NZPD	<i>New Zealand Parliamentary Debates</i>
p	page
ROD	record of documents
s	section (of an Act)
sec	section (of this report, or of an article, book, etc)
sess	session

WAI NUMBERS

As each claim is registered by the registrar of the Waitangi Tribunal, it is given a number for filing purposes. Numbers are assigned chronologically according to dates of registration and each number carries the prefix ‘Wai’. Claims are then commonly referred to by their ‘Wai number’ and this convention is followed in this report. For example, Wai 167 is the main claim concerning the ownership of the Whanganui River and Wai 221 is a claim concerning the North Island main trunk railway lands.

As material pertaining to a claim is submitted to the Tribunal, it is entered on the record of documents for that claim. These records are held at the Tribunal's offices in Wellington and, apart from certain confidential material, are available for public inspection.

PREFACE

This report is part of a national research project instituted by the Waitangi Tribunal entitled ‘Rangahaua Whanui’, which, when complete, will provide district comparisons, along with a national overview, of Maori grievances and the extent and impact of resource loss.

Part I, written by Suzanne Cross, covers the events leading to the loss of land and other resources by Maori of the Whanganui district from 1840 to 1907. Part II, written by Brian Bargh, continues the account of these resource losses to 1990.

The boundaries of the Rangahaua Whanui districts were set by the Waitangi Tribunal and were based on local government boundaries. The boundaries of district 9, the Whanganui district, stretch inland from the coast at Maxwell to the Whanganui River, follow the river to Whakahoro, run across to Mount Ruapehu through the Waimarino block, travel up to the Rangipo area, and then follow the Turakina and Whangaehu Rivers back to the coast (see fig 1).

Part I

Part I of this report deals with the period from 1840 to the 1907 Stout–Ngata commission. It does not pretend to be a comprehensive or detailed examination of all the issues relating to resource loss and Maori grievances in the district. In view of the limited time-frame of eight months, this was an impossible task. Rather, this report provides a broad overview of events, focusing on a small number of issues in more detail, such as the New Zealand Company purchase and leasing in the Murimotu district. It was not feasible to investigate all the issues. In particular, there has been no assessment of the grievances relating to the Whanganui River. I did not feel that I could do justice to these grievances as a section of this report – they really deserve a report of their own. Furthermore, this report cannot be said to represent a Maori perspective of the history of this district, that being the domain of claimant researchers.

Suzanne Cross

Part II

Chapters 8 to 13 deal with the continuing alienation of land by Maori in the Whanganui district after 1906, while chapters 14 and 15 give a summarised account of the struggle between the Crown and Whanganui Maori over the ownership of the Whanganui River, and chapter 16 summarises the claims to the Waitangi Tribunal concerning the district.

The total area owned by Whanganui Maori in 1840 (their rohe), including what was later to be known as the Waimarino block, bounded in the north by the Whanganui River catchment area (see map 5), was approximately 1.77 million

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acres. The Rangahaua Whanui district boundary shown on map 1 encloses an area of about 1.2 million acres. By 1907, approximately 70 percent of the land and forests that had been the tribal property of the Whanganui people had been acquired by the Crown or on-sold to private individuals. Similarly, Suzanne Cross reports in part I that, by 1907, 70 percent of the Rangahaua Whanui district had been alienated.

In 1907, farming, tourism, the logging of native forests, and road and railway maintenance were the predominant activities in the district. The Native Minister was James Carroll. Carroll, a Maori, had been a member of Seddon's Liberal Government in 1899, when it had agreed, as a result of pressure exerted by the Kotahitanga movement, to reduce Maori land purchasing and recognise Maori demands for limited autonomy.¹ The effects of these policy changes are discussed in this report.

The Maori population of the district in 1907 was around 1850 and falling – in contrast to the national Maori population, which was beginning to stabilise, and even rise in some areas, after years of decline. The reasons for this regional trend are also discussed.

Brian Bargh

1. John Williams, *Politics of the New Zealand Maori*, Auckland, Auckland University Press and Oxford University Press, 1968

PART I

1840 to 1907

CHAPTER 1

TRADITIONAL HISTORY

1.1 INTRODUCTION

This broad survey of traditional history has been compiled purely from secondary sources and has proved a difficult task. While other iwi have been the subject of a number of published histories, Whanganui iwi have not. John Grace's work on Tuwharetoa includes several references to Whanganui iwi, or, more particularly, those iwi of the upper Whanganui, because of their close ties with Ngati Tuwharetoa.¹ Early works consulted included those of S Percy Smith and T W Downes, and later works consulted consist largely of local histories.² The nature of the information is sketchy and detailed material about hapu and their relationship to land and resources is lacking.

1.2 SETTLEMENT

1.2.1 Early history

The Whanganui district was settled very early. Maori histories predate the arrival of waka, recording the story of the formation of the Whanganui River. Many years ago several mountains lived in the centre of the North Island: Taranaki, Tongariro, Ngauruhoe, and Ruapehu. Nearby stood the beautiful female mountain of Pihanga, who was married to Tongariro. Taranaki, however, had always secretly admired Pihanga and attempted to carry her off, the result being a battle between Taranaki and Tongariro. Taranaki was defeated and fled, tearing a deep gorge in the earth,

1. John Te H Grace, *Tuwharetoa: The History of the Maori People of the Taupo District*, Wellington, 1959
2. A detailed search of Native Land Court minutes for the Whanganui district would probably turn up further information on traditional history, as would an examination of Keepa Te Rangihiwini's papers. Time restrictions prevented an investigation of these sources.

which filled with water and became the Whanganui River. Taranaki came to rest in his present position and gave his name to the surrounding area. Both the Whanganui River and Mount Ruapehu are regarded by Whanganui Maori as sacred tupuna, to whom they looked for their sense of identity and right of occupancy:

Ko Ruapehu te maunga, ko Whanganui te awa.

Kupe is said to have visited Whanganui around AD 950, when he named the place 'Kai Hau o Kupe', or the place where Kupe ate the wind, because of his difficulty in obtaining food. He then journeyed up river to Kauarapawa (or Kauarapaoa), where one of his companions, Arapawa, drowned. Finding the area unoccupied, Kupe left and proceeded up the coast. It appears, however, that the area was not unoccupied. Downes records the existence of tangata whenua in the area, who were descended from Pae-rangi-o-te-Maunga-roa, whose ancestor came from Hawaiiiki five generations before the arrival of the Aotea waka.³ Whanganui was later settled by the descendants of Turi from the Aotea waka, who had moved southwards from the original settlement of Patea.

3. T W Downes, *Old Whanganui*, Hawera, 1915, p 3

1.2.2 Whanganui iwi

Tradition records that the name 'Whanganui' was given by Haupipi as he travelled down the coast from Patea in search of his runaway wife, Wairaka. He came upon the river and had to wait until the tide turned before he could cross it, because it was 'Too wide to swim, too deep to wade'. He named the river 'Whanganui', or large opening. Smart and Bates state that Haupipi came on the Aotea waka, although he had commenced the journey on the Kurahaupo waka, and was descended from the chief Haunui a Paparangi, while Downes records the subject of this story as being Haunui a Paparangi himself.⁴ Te Ati Haunui a Paparangi is the name given to the conglomeration of hapu in the wider Whanganui rohe.

Tamakehu, the son of Kahupane and Te Ata-ru-iti, is regarded as the ancestor of the Whanganui. Tamakehu's union with his first wife, Ruaka, produced three children, Hinengakau, Tama-upoko, and Tupoho, from whom descent is traced. The upper reaches of the river were settled by the descendents of the daughter, Hinengakau, the middle reaches from Manganui a te Ao to Matahiwi by the descendents of Tama-upoko, the elder son, and the lower reaches from Matahiwi to the coast by those of the younger son, Tupoho. The claims of Hinengakau and Tama-upoko stretch across the Waimarino and Tuhua districts to the Murimotu and Mount Ruapehu.

1.2.3 Hapu interdependence

4. G Smart and A Bates, *The Wanganui Story*, Wanganui, 1972, pp 22–23; Downes, p 4

Traditional History

The saying ‘Te Taura-whira a Hinengakau’ (the rope of twisted strands of Hinengakau) describes the interweaving of the hapu descended from Hinengakau and her brothers to comprise the Whanganui iwi. Hinengakau married Tamahina of the neighbouring Ngati Tuwharetoa in a peace-making alliance, and the loose conglomeration of hapu that made up the Whanganui iwi were closely linked by marriage. Te Peehi Turoa, chief of the up-river hapu of Ngati Patutokotoko, was married to the sister of Te Anaua (or Hori Kingi) of Putiki Wharanui, chief of the Ngati Ruaka hapu. Tarete, the sister of Hoani Wiremu Hipango, chief of Ngati Tumango, was married to Te Mawae, Te Anaua’s brother. Hapu were also closely linked by the river. Use of the river’s resources was not restricted to the area that a hapu occupied. Fishing rights at the mouth of the Whanganui River were not restricted to Ngati Tumango of Putiki, but were open to other groups. Movement down river to the river mouth ‘to utilise seasonal resources was an important aspect of entitlement, complicating rights of ownership at the coast’.⁵ Furthermore, ‘an eel weir might be located at a distance from the kainga of a hapu entitled to its use, and the catch shared with other groups living in the vicinity’.⁶ Similarly, the mana of some chiefs was such that their influence spread over a number of hapu. Hipango’s mana over tribal land, for example, spread some 70 miles up the Whanganui River.⁷ In the pre-contact era, though, it is clear that the iwi structure was such that groups maintained some sort of independence from each other. If one hapu wanted to take a waka down the river past the land of another hapu, their permission would have to be sought.⁸ It has been suggested that some animosity existed between upper and lower river hapu over the control of river traffic.⁹

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5. Alan Ward, Robyn Anderson, Suzanne Cross, and M Harman, ‘CCJWP Draft Historical Report on Whanganui Lands’, June 1993, p 7
 6. Ibid, p 2
 7. Steven Oliver, ‘Wiremu Hoani Hipango’, in Department of Internal Affairs, *The Dictionary of New Zealand Biography*, Wellington, Allen and Unwin, 1990, vol 1, p 192
 8. Testimony of Wharawhara Topine, 3 November 1938, Maori Land Court Whanganui, ‘Application for Investigation of Title to the Bed of the Whanganui River’, National Archives
 9. Paul Clark, *‘Hauhau’: The Pai Marire Search for Maori Identity*, Auckland, 1975, p 70

The Whanganui District

Whanganui iwi also had strong ties with neighbouring iwi. Te Pehi Turoa of Ngati Patutokotoko was descended from the people of the Te Arawa, Aotea, Tainui, and Takitimu waka, but was most closely connected with Ngati Tuwharetoa of Taupo, and his mana was felt in the area to the south of Taupo. The expression current in his time was: 'Ko Ruapehu te maunga, ko Whanganui te awa, ko Huanui a Paparangi te iwi, ko Turoa te tangata' (Ruapehu is the mountain, Whanganui is the river, Haunui a Paparangi is the tribe, Turoa is the man).¹⁰ According to Ian Wards, Ngati Tuwharetoa chief Te Herekiele was also a chief of Whanganui owing to descent from a common ancestor, and such connections meant that Whanganui Maori would aid Ngati Tuwharetoa in times of conflict, and vice versa.¹¹ Whanganui, or rather the upper river hapu, due to their alliance with Ngati Tuwharetoa, were to become involved with conflict between Ngati Tuwharetoa and Nga Rauru and Ngati Ruanui. These southern Taranaki iwi insulted Peehi Turoa and also killed a high-ranking Whanganui chief, Te Kotukuraeroa, who had strong kinship ties with Ngati Tuwharetoa. Turoa enlisted the aid of Ngati Tuwharetoa and a taua of 300 men arrived in January 1840. Fighting did not take place until August of that year and Ngati Tuwharetoa were defeated. A further two Ngati Tuwharetoa taua arrived to seek utu from Nga Rauru and Ngati Ruanui, the first in February 1841 and the second in December 1844, but conflict was avoided each time.¹² Dr Pei Te Hurinui Jones describes further connections between the people of the upper reaches of the river and adjoining iwi, including those of North Taranaki and Tainui. Downes notes that, following conflict, the ties between Whanganui and Ngati Maniapoto were cemented with the marriage of Turanga-pito of Whanganui with Hine-moana of Ngati Maniapoto.¹³

Also affiliated to the Whanganui people were the groups occupying the Ohakune area. According to Merrilyn George, a group known as Ngati Rangi moved up river (from where is not stated) and, leaving their waka at Ranana, journeyed overland to Oruakukuru and Karioi to Tuhirangi. As Ngati Rangi grew, one group under Rangiteauria went northwards to Ngamotu a Taka (to the back of Rangipo), while another, under Rangiteauria's elder brother, Rangituhia, went southwards to Huriwaka (near the Waiouru Army Camp). Their father was Taiwiri, who was descended from the tangata whenua. Another group, Ngati Uenuku, pushed its way up the Manganui-o-te-Ao River, forming settlements, and spread out to Makotuku (now Raetihi) and on to the Waimarino Plains. Uenuku was the sister of Rangiteauria and Rangituhia. Ngati Hotu, descendants of the tangata whenua, were driven from their lands at the southern end of Lake Taupo by Ngati Tuwharetoa and some settled on the Murimotu. Within several generations, these groups had so grown that separate leaderships and hapu had developed, although they retained their affiliation as part of the wider Whanganui iwi.¹⁴

10. Grace, p 237

11. Ian Wards, *The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand, 1832–1852*, Wellington, Department of Internal Affairs: Historical Publications Branch, 1968, pp 302–303

12. Grace, pp 360–373

13. Downes, p 37

14. Merrilyn George, *Ohakune: Opening to a New World*, Ohakune, 1990, pp 8–9

Traditional History

To the north-west, the Whanganui iwi were bordered by Nga Rauru, with whom they had ties because of their shared descent from Turi. Smith describes how after Turi died a great division occurred among his children. This led to his grandson Ruanui and his people residing to the north of the Patea River, and another grandson, Rauru, and his people residing to the south of the river.¹⁵ Smith states that the boundary between Nga Rauru and Whanganui was at the Kai Iwi Stream, but Smart and Bates describe Pungarehu on the north bank of the Whanganui River mouth as a Nga Rauru 'fishing pa'.¹⁶ It appears that Nga Rauru certainly enjoyed rights between the Whanganui and Waitotara Rivers, along with Ngati Ruanui, whose rights were traditionally held to be north of the Waitotara River.

To the south were Ngati Apa, whose interests were concentrated to the south of the Whangaehu River. Mete Kingi Te Rangi Paetahi of Ngati Poutama and Ngati Tumango of Te Ati Haunui-a-Paparangi, who succeeded Hori Kingi Te Anaua of Ngati Ruaka in 1868 as the highest-ranking leader among the lower Whanganui hapu, had ties with Ngati Apa. Hori Kingi Te Anaua also had kinship ties with Ngati Apa and Nga Rauru. In the mid-nineteenth century, Whanganui iwi supported Ngati Apa in their conflict with Ngati Raukawa.

1.3 CONFLICT

15. S Percy Smith, 'History and Traditions of the Taranaki Coast', *Journal of the Polynesian Society*, vol 16, 1907, pp 24–27

16. Smith, p 34; Smart and Bates, p 30

The Whanganui District

Conflict between Whanganui and iwi from further afield had occurred in the early decades of the nineteenth century, the result being that at the time of Pakeha arrival, the river mouth was used only seasonally. In approximately 1819, Nga Puhi and Ngati Toa taua (led by Te Rauparaha and Rangihaeata) attacked and took Purua Pa. They returned later and chased the remaining Whanganui up the river. Later, in 1829, Putiki was beseiged by Te Rauparaha before he again moved southwards. The conflict, however, was such that, while Whanganui iwi retreated up river to fortified pa, they were not conquered and were not dispossessed of any of their land. Whanganui iwi were again to suffer at the hands of migrating iwi around 1832, when Te Atiawa and allies migrated to Manawatu to join other members of their tribe (Heke o Tamateuaua). When they arrived at Whanganui, they found few people there. Many had accompanied Ngati Maniapoto, Waikato, and Ngati Tuwharetoa, who were escorting some Ngati Raukawa to Manawatu and Kapiti. The Te Atiawa heke plundered crops and generally took charge of the settlements near the river mouth. Conflict arose when Whanganui returned, and they were initially defeated, even with the aid of Ngati Tuwharetoa. A second attack was launched and this time Te Atiawa suffered heavy losses and withdrew.¹⁷ After this, Whanganui were to remain in possession of their lands.

Although residence patterns were altered by conflict (only the pa of Putiki Wharanui, near the river mouth, being occupied for any length of time), the gathering of resources was not disturbed. Migrations down the river on a seasonal basis to utilise resources, in particular, fisheries, continued, the tidal estuary providing Maori with shallow water and sloping banks where catches could be unloaded. Wakefield, on one of his first visits to Whanganui, noted that:

At daybreak . . . a whole fleet of canoes went out to sea to fish, there were at least fifty sail . . . Kuru explained to me that none of the natives lived permanently near the sea-side; but that their pa and cultivations were far up the river, among the mountainous country, which they consider more fertile as well as more secure from hostile attacks. These villages near the sea were only used during the season when the fish abound and the constant fine weather allows the almost daily exit of the canoes.¹⁸

17. Grace, p 349

18. E J Wakefield, *Adventure in New Zealand from 1839 to 1844 with Some Account of the Beginning of the British Colonization of the Islands*, 4 vols, London, John Murray, 1845, vol 1, pp 242–243

Traditional History

In September 1840, the Reverend John Mason noted that pa and cultivations were anything from one to five days' journey inland.¹⁹

The occupation of the district by Whanganui iwi is, therefore, a long one, uncomplicated by conquest or dispossession. Tracing their ancestry to three primary ancestors, it appears that hapu were connected under the 'iwi umbrella', but at the same time retained their independence. Hapu could also trace their lineage to neighbouring iwi, old alliances being maintained, and new ones formed, through intermarriage.

19. L J B Chapple and C Barton, *Early Missionary Work in Whanganui, 1840–1850*, Wanganui, 1930, p 46

CHAPTER 2

THE NEW ZEALAND COMPANY PURCHASE

2.1 THE 1839 PURCHASE

In November 1839, New Zealand Company agents transacted a deed with ‘three chiefs, belonging to the Wanganui tribes’.¹ This was for:

all those Lands Islands, Tenements, Woods, Bays, Harbours, Rivers, Streams and Creeks . . . from Manewatu to Patea and inland . . . to the Mountain of Tonga Ridi.²

According to E J Wakefield, Te Kiri Karamu, Te Rangi Wakarurua, and his son, Kuru Kanga, came on board the *Tory* while it was anchored off Waikanae ‘to commence negotiations for the sale of their district’. Having ‘heard all the usual explanations, [they] described the boundaries within which their claims lay, and, after receiving a fowling-piece each in payment, [they] signed a deed which had been translated to them’.³ Wards believes that these ‘chiefs’ were so impressed with the goods involved in the Wellington purchase that they ‘overlooked the fact that they had neither the rank nor the authority to enter into such transactions’.⁴ Similarly, Colonel William Wakefield, the company’s principal agent, made no attempt to ascertain whether he had been dealing with the correct parties. Two of the

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1. E J Wakefield, *Adventure in New Zealand from 1839 to 1844: With Some Account of the Beginning of the British Colonization of the Islands*, 4 vols, London, John Murray, 1845, vol 1, p 142
 2. Copy of deed of sale, NZC 3/8, no 60, p 387
 3. Wakefield, vol 1, p 142
 4. Ian Wards, *The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand, 1832–1852*, Wellington, Department of Internal Affairs: Historical Publications Branch, 1968, p 303

‘chiefs’, Karamu and Wakarurua, returned to shore, while Kanga returned to Whanganui aboard the *Tory*, to facilitate the completion of the purchase among his iwi.

E J Wakefield visited Whanganui in late March 1840. At Putiki Wharanui, he was introduced by ‘E Kuru’ to the ‘three principal chiefs of the Wanganui tribes’: Turoa, Rangi Tauwira, and Te Anaua. The latter handed Wakefield a piece of paper left by the Reverend Henry Williams in December 1839. It read:

Wanganui, December 17th, 1839

This is to give notice, that this part of New Zealand has been purchased off the native chiefs residing here for the benefit of the Ngatiawa tribes, extending from Rangitikei to Patea, towards Taranaki, by Henry Williams.

Williams, aware of the New Zealand Company’s intentions to purchase land in the area, had attempted to persuade the Whanganui chiefs to sell him their land so that he could ‘hold it in trust for the sole benefit of the Maori people’.⁵ Wakefield explains that the chiefs were under the impression that the piece of paper was a certificate of good character to be used to show future travellers through the area.⁶

Henry Williams returned to the area in May 1840, accompanied by Octavius Hadfield, to acquire signatures on the Treaty of Waitangi. Those who signed included Te Anaua, his brother Te Mawae and sister Te Rere-o-maki, Turoa and his son Pakoro Turoa, Te Rangi Wakarurua, and Wiremu Te Tauri of Ngati Tuwharetoa, who arrived in the area in 1838 to preach Christianity.

In May 1840, Wakefield returned to Whanganui to ‘complete’ the New Zealand Company’s purchase. The company was anxious to form a settlement here because of the lack of cultivatable land in Wellington.

5. G Smart and A Bates, *The Wanganui Story*, Wanganui, 1972, p 49

6. Wakefield, vol 1, p 240

2.2 DISTRIBUTION OF PAYMENT

E Kuru assembled around 700 Maori at Wahipuna Pa, which was situated near the river mouth on the south bank. Wakefield had previously visited several villages and, through an interpreter, explained ‘the whole force and meaning of the transaction’. According to Wakefield, all 27 ‘head chiefs’ agreed to the terms and signed the deed ‘after it had been read and interpreted, with full explanations, to them, and to a large audience’.⁷ The large quantity of goods, valued at £700 and approved as sufficient by Kuru, were laid out in preparation for distribution. Wakefield retreated as Kuru attempted to distribute the sale goods and entitlements were disputed: ‘Any legitimacy this transaction may have possessed was destroyed by the chaos that occurred when the payment was distributed.’⁸

Wakefield described the scene:

Seven hundred naked savages were twisted and entangled in one mass, like a swarm of bees, over the line of goods; and their cries of encouragement, anger, disappointment, vengeance, pain, or triumph, were blended in one ferocious growl. With a telescope could be distinguished brandished weapons, clenched fists, torn blankets, uplifted boxes . . . Shortly after, Turoa and Te Anaua came alongside in canoes, tolerably laden with spoil, and exclaimed against the smallness of their share

7. Ibid, p 287. There were, in fact, 34 Maori signatories to the deed.

8. R H Voelkerling and K L Stewart, *From Sand to Papa: A History of the Wanganui County*, Wanganui, 1986, p 13

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. . . They wanted to return the goods to me; but I steadfastly refused, and told them that the bargain was concluded, and they must now arrange the division in their own way.⁹

9. Wakefield, vol 1, p 289

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It is an issue for consideration whether Wakefield held primary responsibility for the equitable division of the sale goods. After watching the ‘distribution’, Wakefield must have been foolish to think that ‘those who failed to obtain their share of the payment would agree that the transaction had been consummated’.¹⁰ The Reverend Richard Taylor later commented that:

It is questionable, if in point of law, such a bargain could be concluded. He [Wakefield] had received individually their signatures and he did not in like manner deliver the goods but abandoned them before delivery.¹¹

Once again, ‘there was no serious consideration of whether the Company was buying from those Maori who had primary right over the area’.¹² Wakefield relied solely on Kuru to assemble those Maori who had interests in the land, and he ‘made no effort to discover whether these chiefs had any authority to sell the land concerned’.¹³ Commissioner Spain was later to state that the majority of Maori who consented to the sale:

were people brought down . . . the river by Kurukanga to receive the goods, and could have had little, if any, claim to or interest in the land near the mouth of the Wanganui, comprised within the limits of the Company’s survey.¹⁴

Wards believes this incident had all the ingredients of future conflict and concludes that it was:

a land transaction in which tribes who had little or no title to the land concerned, not only initiated the sale but seized most of the payment and disappeared into the fastnesses of the upper river.¹⁵

The following day, Wakefield was presented with a ‘homai no homai’, or ‘a gift for a gift’. It consisted of 30 pigs and about 10 tons of potatoes, arranged in a row on

10. Voelkerling and Stewart, pp 13–14

11. *Ibid*, p 14

12. Alan Ward, Robyn Anderson, Suzanne Cross, and M Harman, ‘CCJWP Draft Historical Report on Whanganui Lands’, June 1993, p 8

13. Voelkerling and Stewart, p 13

14. Report 4, ‘Petre (Wanganui)’, 31 March 1845, BPP, vol 5, p 79

15. Wards, p 304

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the spot where the sale goods had been laid out. In return, Wakefield gave a blanket for each pig and a pipe or some tobacco for every two bags of potatoes.¹⁶ It appears that 'Wakefield was sufficiently aware of the implications of the Maoris' gift to him to insist on treating it as a trading transaction'.¹⁷ He later wrote that he 'accepted and paid for this gift as a private speculation on my part'.¹⁸

2.3 SURVEYING BEGINS

In December 1840, Colonel Wakefield announced the New Zealand Company's intention to open land for selection at Wanganui, and Wellington Carrington, along with six assistants, was dispatched to commence surveying. Progress was slow, owing not merely to the lack of staff but also to the attitude of Maori. In a report to the company in June 1841, Carrington told of the interference of Taupo Maori, who claimed that the land being surveyed was theirs and that they had not received any payment for it. Settlers, who had been staying in the Wanganui township, had been waiting to select land for five months or more, and they complained more and more of the annoying conduct of Maori.

16. Wakefield, vol 1, p 291

17. Voelkerling and Stuart, p 14

18. Wakefield, vol 1, p 291

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Governor Hobson reminded the company that all land transactions made prior to the signing of the Treaty were invalid unless title had been approved by the Government. But Colonel Wakefield ignored this, and in September 1841, the first selections were made. Hobson bowed to settler and company pressure and agreed that 50,000 acres could be surveyed and allotted by the company.¹⁹ While title had not been confirmed, Hobson's thinking was that Maori owners could be compensated later, but, 'by allowing disputed territory to be settled pending legal investigation of ownership, Maori were more likely to be locked into a position of "sale"'.²⁰ This was complicated by Hobson 'letting it be known, through government officials and missionaries, that Maoris would never be forced to give up land that they could prove had not been sold'.²¹

The second selection took place in June 1842. The police magistrate, Gilbert Dawson, labelled the selection unfair because no town sections were allocated to Maori and they were not able to take part in the ballot to determine the order of priority in the selection of allotments. By the time William Spain arrived in Whanganui in late March 1843, Maori had been obstructing settlement for two years and had been neatly divided into two groups: 'those who supported and those who

19. Rosemary Tonk, 'The First New Zealand Land Commissions, 1840–1845', MA thesis, University of Canterbury, 1986, pp 30–32

20. Ward et al, p 8

21. Wards, p 306

repudiated the bargain, the repudiators being almost without exception mihanere [missionary]'.²²

2.4 COMMISSIONER SPAIN INVESTIGATES

Spain had been appointed by Hobson in 1841 to investigate pre-1840 land claims. His inquiries began with the New Zealand Company's claims to approximately 20 million acres over nearly a third of New Zealand.²³ Spain's investigations into the company's Whanganui purchase began on 13 April 1843, without the presence of a company representative, whom Spain had been awaiting since his arrival, and without the presence of E Kuru. E J Wakefield arrived on 17 April. Spain had examined witnesses for three days and had closed his court, but he reopened it for a further three days.

22. Wakefield, vol 2, p 9

23. M P K Sorrenson, 'Maori and Pakeha', in W H Oliver (ed), *The Oxford History of New Zealand*, Auckland, 1988, p 172

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Upon examination, Wakefield justified his actions in ‘completing’ the company’s purchase. He stated that he had pressed anyone who might object to the purchase to do so and that the signatures he acquired on the deed definitely included those of the principal chiefs of the area. An ‘inferior chief’ had, however, dissented to the sale, but was silenced by Turoa. It was surely Wakefield’s task to acquire the assent of all landowners, whatever their traditional status. According to Angela Ballara, ‘“Owners” were not entitled to alienate because the mana of the high chief lay on the lands . . . But, acting alone, chiefs could not alienate land either’.²⁴ Furthermore, two of the principal chiefs of Putikiwharanui, Mawae and Hoani Wiremu Hipango, were not present at the signing of the deed. Both denied ever having consented to the sale or receiving any part of the payment: ‘they asserted their right to be consulted on such questions, and their claim to and interest in the land affected by the alleged sale’.²⁵

John Brook, who was employed by Wakefield to act as an interpreter during the negotiations at Whanganui, was also examined by the commission. Upon being requested, Brook translated the deed into Maori as he had done at the time of the purchase, and this was in turn translated literally into English by George Clark junior, the Sub-Protector of Aborigines. Spain’s conclusion was that Brook’s translation:

24. Angela Ballara, ‘Maori Land Tenure and Social Organization’, submission to Waitangi Tribunal in Ngati Kahungunu claim, 1993, p 17

25. BPP, vol 5, p 86

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was little calculated to convey to the natives a correct notion of the contents of the deed they had signed, or of the boundaries of the land it purported to convey. Mr Clarke had considerable difficulty in translating it into English, so as to make it intelligible; and certainly many parts of it are very ambiguous.²⁶

Spain then proceeded to examine a number of Maori chiefs. It became apparent that:

at the time of Jerningham Wakefield's visit to make the final payment, different Maori had different ideas of what was happening and nearly as many opposed the sale as were in favour of it.²⁷

Te Karamu of Ngati Patutokotoko admitted offering the land for sale and agreeing to receive payment for it, but he denied that any explanation of the deed was given and he described the chaotic distribution of the payment, whereby both those who agreed to the sale and those who did not received a portion of the payment. Turoa, also of Ngati Patutokotoko, stated that he understood that upon signing the deed he was selling his land, but that he received no payment. Te Anaua admitted signing the deed but said that he did not agree to the sale and had been foolish to sign. He also maintained that the contents of the deed were not explained to him. Spain concluded from this and other evidence:

that payment had not been properly divided, that there were some Maori who had not received any of the payment to which they were entitled, and that some chiefs were absent from the proceedings while others who were in attendance did not consent to the sale.²⁸

Spain also deduced from the evidence presented that the Maori who claimed land on the river could be divided into two groups:

those of the tribe residing at Putikiwaranui on the south bank of the river, and those belonging to the tribe Patutokotoko, and the followers of Kurukanga and Rangitauwira. The latter appear to have been the principal promoters in the sale, and

26. Ibid, p 84

27. Tonk, p 194

28. Ward et al, p 9

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sharers in the distribution of the merchandize; while the payment made to those of Putikiwaranui was very trifling, and the principal people of that pah were absent from Wanganui when the transaction was concluded.

It further appears that Rangitauwira and Kurukanga, previously to the sale, had resided almost exclusively many miles up the river, and had only come to reside within the limits of the Company's block since the arrival of the settlers; . . . it may be inferred that the majority at least of those who consented to the sale were people brought down from several miles up the river by Kurukanga to receive the goods, and could have had little, if any, claim to or interest in the land near the mouth of the Wanganui, comprised within the limits of the Company's survey.²⁹

Furthermore, Spain was to comment on the:

intermixture of payments for land, and barter for pigs and potatoes, [which] has necessarily been the source of immense confusion in the minds of the natives, and has afforded to all who were inclined to deny their participation in the sale a ready answer to the assertion of the fact of their having received goods in payment for the land, for which they immediately declare they gave Mr Wakefield an equivalent in pigs and potatoes.³⁰

John MacGregor, the master of the schooner *Surprise*, which conveyed the payment goods to Whanganui, stated that, while Maori did not say so at the time, they later told him that the pigs and potatoes were given in exchange for the goods offered as payment for the land.³¹ The pigs and potatoes were placed in rows in exactly the same place where the goods had been laid out. Spain's final report criticised Wakefield and his course of action at the time of the purchase, as well as Colonel Wakefield for employing the youthful and inexperienced E J Wakefield to conduct the purchase of such a 'large and valuable' tract of land.

29. BPP, vol 5, p 87

30. Ibid

31. Ibid, p 85. T W Downes was told by an 'old Maori' that Wakefield's 'sale' had caused much ill-feeling among Maori 'as Rangitauira and Kuru considered we had sold our land to the Europeans at that time, but all the rest of us held that it was simply a "homai-homai", or gift for gift'. See T W Downes, *History and Guide to the Wanganui River*, Wanganui, 1921, p 81.

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Despite his findings, ‘it appears that at no point did Spain consider that the purchase by the New Zealand Company should be disallowed and [the] land returned to Maori’.³² He judged that a ‘partial sale’ had taken place and decided that ‘a payment should be awarded to those Natives who had thus been excluded in the first instance, to make the purchase complete’.³³ His concern, then, was to make the purchase acceptable to Maori. As Clarke pointed out to the chiefs of Putiki, ‘If this was a new purchase, or an attempt to make a new purchase you perhaps might object, but it is only making straight a former purchase’.³⁴

Spain’s final judgment was that the New Zealand Company should be awarded 40,000 acres of land and Maori £1000, in addition to the initial payment of £700 of trade goods – a sum that Tonk believes must have seemed ‘shamefully small and insignificant’ to Maori by this stage.³⁵ Tonk also asserts that Maori were given no say as to the amount of compensation they were to receive. Reserved to Maori were:

All the pahs, burying-places and grounds actually in cultivation by the natives, . . . the limits of the pahs to be the ground fenced in around their native houses, including the ground in cultivation or occupation around the adjoining houses without the fence, and cultivations as those tracts of country which are now used by the natives for vegetable productions, or which have been so used by the aboriginal natives of New Zealand since the establishment of the colony; . . . all the native reserves, equal to one-tenth of the 40,000 acres hereby awarded to the said Company . . . and also . . . St Mary’s Lake, and all the native eel-cuts and right of fishing upon the lakes St Mary, Medina, Dutch Lagoon and Widgeon Lake.³⁶

Some of the ‘tenths’ had already been chosen and the remainder were to be chosen at the rate of one choice in ten. Spain found it necessary to reserve St Mary’s Lake and other sources of mahinga kai ‘as the natives would not consent to part with

32. Ward et al, p 9

33. BPP, vol 5, p 96

34. Ibid

35. Tonk, pp 320–321

36. BPP, vol 5, pp 90–91

them, having been in the habit of fishing there from time immemorial'.³⁷ No mention was made of rights to the river and its resources.

2.5 FURTHER ATTEMPTS AT SETTLEMENT

Spain returned to Whanganui in May 1844 accompanied by George Clarke junior to distribute the £1000 payment. He had received two letters from Te Mawae, Hoani Wiremu, and Te Anaua, who were anxious to receive the payment, but on arrival found that they were determined to refuse any payment. Spain responded by telling Maori that their refusal to accept the payment would not prevent Europeans from 'having the land': 'I have awarded the land to them, and I cannot alter it.'³⁸

Later in 1844, another attempt was made to resolve the matter. According to Wards, as they increasingly came under the influence of Christianity, many chiefs began to regret the absence of settlers. In September 1844, Te Anaua, Wiremu, Te Mawae, and Te Rangirunga wrote to Governor FitzRoy asking him to come to Whanganui and settle the matter. FitzRoy replied, assuring the chiefs that 'No land shall be taken from you against your consent', and sent Symonds, a protector of aborigines and justice of the peace, to act in his place. The conclusion of the

37. Ibid, p 89

38. Report 4, enclosure 8, 16 May 1844, BPP, vol 5, p 97

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transaction, however, was to be further delayed by a resurgence in tribal conflict. A taua of 200 Ngati Tuwharetoa arrived from Taupo to seek assistance from Whanganui iwi against Ngati Ruanui, at whose hands they had been defeated in 1839. There was widespread concern that fighting was imminent, and Symonds left the area before an agreement on the block could be reached.

It was not until March 1846 that another attempt was made to settle the matter, this time by Governor Grey. At a hui at Putiki, the principal chiefs assembled there agreed that the land should be sold, and at another hui attended by all the chiefs of the area, it was agreed that the £1000 awarded by Spain was acceptable. Grey sent Symonds to effect the settlement and instructed him to ensure that ‘the natives clearly understand and recognise the extreme boundaries of the block’ and to ascertain ‘which are the paha and cultivations which are reserved to the natives in the terms of Mr Spain’s award, provided they have been used by the natives for vegetable production [since the foundation of the colony]’. Symonds was also instructed to set aside large reserves in the spots Maori considered the most convenient, while persuading them to abandon ‘such cultivations as may not really be requisite for their own purposes, and yet may interfere with the pursuits and prosperity of the settlers’. Finally, Symonds was required to gain Maori signatures to

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a plan ‘showing the exact limits of the block, and of the reserved lands and cultivations’.³⁹

When Symonds arrived in Whanganui, the lower river iwi were assembled and, with Donald McLean acting as interpreter, were told that they could expect friendship and increasing benefits from Pakeha only if Maori met their wishes. They were to point out the boundaries of the land that had been sold and the land they wished to have reserved to them, at which time, if everyone were satisfied, the £1000 would be distributed.⁴⁰

Symonds’s task soon became one of mediating with Maori over the extent of their reserves. Most were discontented with ‘the scattered reserves apportioned by Spain, and wanted larger, connected blocks coinciding with existing cultivations’.⁴¹ Taylor had inspected the reserves and ‘agreed that the chiefs should refuse to accept them as they did not include existing cultivations and, as at Wellington, much of the land was useless’.⁴² Symonds agreed with this assessment and permitted the survey of several additional reserves, much to the dismay of the settlers, who felt that too

39. Grey to Symonds, 17 April 1846, BPP, vol 5, pp 550–551

40. Wards, pp 317–318

41. Ibid, p 318

42. Ibid

many concessions were being made to the Maori, who would 'end up with the best parts of the block'.⁴³

2.6 CONFLICT CONTINUES

Despite Symonds's efforts to improve the quality of the reserves, friction between surveyors and Maori continued to arise, such as that over the Putiki reserve. In that case, Taylor reported that Maori were fully justified in refusing the land reserved to them, for the reasons mentioned above. He reported that:

the surveyor objected to the reserve the natives made as interfering with the allotments already sold but my natives very justly remarked that they had no business to sell the land amongst themselves before they had bought it off them and that as the land was still their own they could retain any portion they thought proper.⁴⁴

Maori still maintained that the purchase had not been finalised and that officials had no authority to dictate which pieces of land they could and could not retain. Further dispute arose when surveying began in the Whangaehu area. Iwi there asserted that they had never been consulted about the transaction and had received no payment, and this statement was supported by Te Mawae and other chiefs.

43. Ibid

44. Cited in Chris Shenton, 'Historical Report on the Whanganui Purchase', unpublished paper, draft 1, p 18

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Again, however, settlement was to be delayed. Conflict in the Wellington region, followed by conflict at Whanganui, generally considered to be unrelated to the issues of ownership and sale, was to postpone settlement for another two years.⁴⁵

In April 1848, following the negotiation of peace in the area, McLean, accompanied by Alfred Wills, a New Zealand Company surveyor, was sent to reach a final settlement with the Whanganui iwi. As Luiten correctly states, ‘the Crown considered that the block had already been sold, McLean would merely be sorting out reserves for the locals and the amount of “compensation” to be paid to them’.⁴⁶

On McLean’s arrival, a circular was widely distributed. It called:

all bona fide Claimants to land within the New Zealand Company’s Block to communicate with Mr McLean, warned pretenders from putting forward invalid Claims, [and] stated that the payment was not to be made to one or a few great Chiefs but was to be divided amongst all, that it was a last payment and intended for those whose claims had not previously been extinguished, and that the amount of compensation was £1,000.⁴⁷

45. See Wards, chs 7–10

46. Jane Luiten, ‘An Exploratory Report Commissioned by the Waitangi Tribunal on Early Crown Purchases Whanganui ki Porirua’, March 1992, p 10

47. Wills to principal agent, 23 June 1848, NZC 3/8, NA Wellington (Luiten, ‘Whanganui ki Porirua Supporting Documents’, pt 2, p 357)

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McLean and Wills then spent most of May 1848 visiting iwi with interests in the block, investigating boundaries and reserves, and taking ‘every pains in instructing them as to the binding nature, on themselves and posterity, of the engagements they were entering into respecting the transfer of land’.⁴⁸ McLean, anxious to eliminate the small cultivations, which ‘greatly interfere with the Colonists sections’, maintained that Symonds had allocated Maori ample reserves in 1846.⁴⁹ A number of adjustments were made, at the end of which Wills concluded that Maori were ‘great gainers in quality of land as they have made their selections in the spots which they consider most convenient and desirable’.⁵⁰ No independent assessment of the quality of these reserves has been made, and further research into this matter is necessary.

2.7 RESERVE ALLOCATIONS

As Wills also duly noted, however, the allocation of reserves had been reduced by 600 or 700 acres. This diminution of reserves was not seen as disadvantaging Maori, but rather, as Ward has pointed out:

Many government officers of the time . . . considered that it was not in the Maori people’s own interest to cling to a semi-traditional lifestyle on portions of their

48. Cited in Robyn Anderson, ‘The Wanganui Purchase’, CCJWP draft report, 1992, p 5

49. Wills to principal agent, 13 June 1848, NZC 3/8, NA Wellington (Luiten, ‘Supporting Documents’, pt 2, p 358)

50. Ibid, p 410

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traditional lands . . . They considered that the future of the Maori was better assured by getting title to individual property from the Crown and farming land free of hapu involvement.

These officers believed that if Maori demand for reserves could be limited, they would be obliged to buy land back from the Crown, as individuals.⁵¹

This explained McLean's enthusiasm when some chiefs expressed an interest in buying land within the Whanganui block. He regarded Te Waka Tarewa's desire to repurchase land at Hikitarā:

at a price more than twenty times higher than he received for it, and which particular spot he relinquished with very great reluctance, [as] exhibit[ing] more fully than any other circumstance . . . the marked improvement that is going on among the Whanganui Natives, and their increasing confidence and respect for the British Government and their Majesty's representatives in these islands.⁵²

Despite McLean's recommendation that legislation should be passed to facilitate repurchasing by Maori, which would encourage them to dispose of their 'extensive' but 'comparatively valueless' land, Maori received little or no administrative assistance in repurchasing, which would have required a 'huge cultural leap' on behalf of individual Maori. Hori Patara appears to be the only Maori in the Whanganui area who received any assistance in this endeavour when he was allowed two years to pay off his section. No effort appears to have been made 'to set aside some of the purchase price from the large blocks for such repurchases'.⁵³ Furthermore, it seems rather naive to have expected Maori to repurchase land that

51. Alan Ward, 'Interim Report on the Ahuriri Purchase and Related Matters (In Relation to Napier Railway Station)', CCJWP report, 1992, p 12

52. McLean to Colonial Secretary, 9 November 1850, AJHR, 1861, C-1, p 257

53. Ward, 'Interim Report on the Ahuriri Purchase', p 13

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was generally resold to them at market rates, when the amount they had previously received for selling their land was comparatively low.

2.8 McLEAN'S NEGOTIATIONS

Despite McLean's experience in negotiating, his task was not an easy one, although he attributed difficulties to rivalries and jealousies between iwi rather than to an aversion to selling land.⁵⁴ McLean visited Kai Iwi on 17 May 1848 to meet with Ngati Ruanui and Waitotara Maori, who were objecting to the disposal of their land. McLean believed that these objections were based on 'strong feelings of jealousy towards the Whanganui tribes', but he managed to convince them that:

a settlement of their claims and disputed boundaries . . . would be the surest means of extinguishing their long-pending animosities, and of ultimately introducing Europeans to live on the land they were desired to part with, who would promote peace and harmony, and confer lasting benefits on themselves and their posterity.⁵⁵

McLean then took the 'most influential' chiefs to witness the cutting of the north-eastern boundary line.

At Waipakura reserve, McLean also encountered resistance from the principal chiefs Pehi Turoa, Ngapara, and Hamarama, who refused to enter into negotiations

54. Luiten, p 11

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with Putiki Maori, because ‘a feeling of enmity existed between them’. McLean informed them that:

all the other tribes with whom I had been negotiating promised to make up their difficulty, and unite in a friendly spirit to dispose of their claims, – therefore, I did not expect that they, as Chiefs, would allow petty animosities to influence them against doing the same.⁵⁶

Six hundred Maori gathered to complete the sale at three meetings set for 26 to 29 May 1848. McLean maintained that his intimation of a:

minute and public investigation of claims induced many of the principal Chiefs to moderate their exclusive ideas on this subject, and to admit the equitable right of others, as well as the members of their respective tribes to participate in the compensation.⁵⁷

According to Wills, the various tribes arrived early to sort out who was entitled to payment, and those names were then submitted to McLean, who used the information to decide on how the compensation was to be distributed.⁵⁸ On 26 May, the various iwi assembled outside the Whanganui Hotel and upon McLean’s request that they express their feelings about the transaction, they:

successively responded by several animated speeches to the effect that they had, in accordance with their own customs, cried, lamented, and wept over their land, which they now wished for ever to be given up to the Government.⁵⁹

The deed of sale, which McLean described as being drawn up in ‘the most simple and perspicuous, yet binding, terms that the Native language would admit of’ was read. The external and reserve boundaries were pointed out on the map attached to the deed, with Maori ‘fully assenting’. Eighty-three ‘principal claimants’ signed the deed on 26 May, including three boys brought forward by the chiefs to be future witnesses to their parents’ acts, 114 signed on 27 May, and a further 10 signed on

55. McLean to Colonial Secretary, September 1848, AJHR, 1861, C-1, p 248

56. *Ibid*, p 249

57. *Ibid*

58. Luiten, pp 11–12

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28 May. The compensation money was then handed over to the 21 claimant iwi, who McLean believed to be perfectly satisfied. The average amount paid to each iwi was £50. No effort was made to distinguish between those who received part of the earlier payment and those who had missed out or refused to accept any payment.

In his final report on the matter to the Colonial Secretary, McLean seemed very pleased with his efforts. Not only had he carried out his instructions but he had convinced Maori to give up, in addition to the land mentioned in an earlier letter (which has not been found), two pieces of land on the river at Tutaeka and Mataongaonga. The boundaries of the purchase contained 86,200 acres, and the 15 reserves were estimated at 5450 acres, less than Maori would have been entitled to under the New Zealand Company's policy of tenths. McLean justified this by saying that Maori had retained certain valuable blocks of land, including one at Putiki. These areas of land appear to have been reserved solely on the basis of exception from sale.

59. McLean to Colonial Secretary, September 1848, AJHR, 1861, C-1, p 249

2.9 ANOMALIES AND IRREGULARITIES

Although Spain's award was for only 40,000 acres, the area of land surveyed by the company within a plan submitted by it estimated to contain almost 90,000 acres, the boundaries of the final purchase conform to the company's plan and ignore Spain's distinction between surveyed and unsurveyed land. McLean explains this as being an error on Spain's behalf: 'this difference arose from the marginal line of the map being considered the boundary'.⁶⁰ No additional payments were made for the increased acreage and no allowance was made for the rise in land values between 1840 and 1848. It has been concluded by some recent historians that 'The amount eventually paid . . . was an inadequate amount for a block of over 86,000 acres'.⁶¹

60. *Ibid*, p 250

61. Ward et al, p 17

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The New Zealand Company's purchase at Whanganui contained a large number of anomalies and irregularities. The company initially went ahead with survey and selection without sanction from the Crown, yet when the Crown waived its right of pre-emption, it gave tacit approval to the company's actions. Crown policy at this time included the investigation of pre-Treaty purchases: 'This appears to be an assumption of trusteeship by the Crown, but the question remains whether the official mechanism by which the fairness and legality of the purchase was decided, operated effectively.'⁶² Spain's commission sat for only six days, and although he:

acknowledged that the vendors' understanding of the transaction was limited, that the payment had been improperly distributed and that only limited consent had been gained, he did not disallow the sale. Given these admitted shortcomings in the conduct of the purchase, it is doubtful whether the Crown should have accepted the Whanganui deed as a valid conveyance.⁶³

62. Ibid, p 16

63. Ibid, pp 16-17

CHAPTER 3

1850 TO 1870

3.1 SURVEYS

Following the conclusion of the Whanganui purchase in 1848, further land purchasing in the area was largely negligible until the 1870s. The last two years of the 1840s and the early 1850s were taken up with surveys in relation to the 1848 purchase. In November 1850, McLean took much pleasure in reporting to the Colonial Secretary that the adjustment of the inland boundaries of the Whanganui block had been completed.¹ McLean took the opportunity to explain the delay in settling the inland boundary extending to the Whangaehu River and in defining many of the reserves, which he blamed on not having a surveyor at his ‘express service’ and having to rely on Park and his assistant.

This delay in defining reserves appears to have continued for several more years.

In December 1855, McLean wrote to D Porter, the assistant surveyor in Whanganui, that:

It is of great importance that the survey of the boundaries of the several Native reserves which have been agreed to between the Natives and myself . . . , should be undertaken, as soon as possible, to prevent a recurrence of the difficulties that have already arisen in consequence of delaying this important service.²

What these ‘difficulties’ were he does not state. McLean went on to direct Porter to the necessary tasks, which included finalising the position of the Kai Iwi line to the Kai Iwi Stream and laying out the Waipakura reserve. Porter was also to set aside a number of pieces of land for several chiefs: 20 acres beyond the Aramoho reserve for Petira, 40 acres at Urapai on the Pohueroa Stream for Hori Kingi and Te Mawae,

1. McLean to Domett, 4 November 1850, AJHR, 1861, C-1, p 255

and another 40 acres for Tamati Te Rere ‘where his wheat is growing’. The latter two pieces of land were only to be marked off on the condition that the recipients relinquish all claims ‘now adduced by them to certain other portions of land behind the Aramoho boundary’. McLean also asked that 100 acres purchased from him by the late Hori Patara be surveyed out of his (McLean’s) selection of 150 acres on the right bank of the river at Tauaroa so that a conveyance could be executed for the descendants.³

3.2 FURTHER LAND PURCHASES

As stated above, land purchases in the Whanganui area were largely negligible following the 1848 purchase. Turton’s deeds record only three purchases between 1848 and 1872, all transacted between Maori and the Crown. The first, in July 1863, was the Waitotara–Okehu block, which for the most part falls outside the area covered by this report. This purchase was transacted with Nga Rauru, who received a £500 down payment in May 1859 and a further £2000 in July 1863. Some seven reserves, containing a total of 6052 acres, were listed in the deed.⁴

2. McLean to Porter, 17 December 1855, AJHR, 1861, C-1, p 270

3. Ibid

4. H H Turton (ed), *Maori Deeds of Land Purchases in the North Island of New Zealand*, vol 2, *Provinces of Taranaki, Wellington, and Hawke’s Bay*, Wellington, Government Printer, 1877, deed 78. For further information on this

The second purchase listed by Turton for this period was that of the Okui eel fisheries, which had been reserved in the 1848 Whanganui deed. In the deed, signed on 1 October 1863, the chiefs of Ngapairangi parted with their:

rights title and interest in the Eel Weirs and Manga Fisheries situated in the streams in the Okui District, ie in the Matarawa, Kaukatia, Puwharawhara, Matakarohe, Mangamouku, Mangamutu, Mataongaonga streams, and their tributaries.

In return, they received £35.⁵ The deed makes no mention of land.

purchase, see Aroha Harris, 'An "Iniquitous Job"?: Acquisition of the Waitotara Block by the Crown', report commissioned by the Waitangi Tribunal, June 1993.

5. Turton, deed 79

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The final purchase listed by Turton is that of the Parikino block, located between the Whanganui and Mangawhero Rivers.⁶ The sale was negotiated by John White, on behalf of the Crown, and the block was sold by the ‘chiefs and people’ of Ngapoutama, Ngatituera, Ngatihinearo, Ngatihine, Ngatituhekerangi, Ngatitukorero, Ngatihinga, Ngatihou, and Ngatipuru.⁷ The deed stated that the transaction included the block’s trees, minerals, waters, large streams, lakes, small streams, and everything ‘belonging to that land whether on the surface or under the surface’. From the deed it appears that a township was planned for this land. An area of one square mile (640 acres) on the bank of the river was to be set aside as the town, and the land within was to be sold for £5 per acre. The price for suburban land was set at 1s 6p per acre, which presumably included the remaining 360 acres. The £1000 purchase money was not to be paid at once, but rather when the land was on sold by the Government. This seems a rather confusing arrangement, which presumably meant that if the Government failed to sell the land, Maori would receive no payment for it. The reserves set aside included two of 1000 acres each, 10 acres of cultivations at Waka-uru-awaka, 6¼ acres in two sites within the town, and about 40 acres of kahikatea bush.⁸ The lack of land purchase activity during this period is due to a number of factors, probably including the isolation of the region and the legacy of fear left from conflict in the 1840s. More importantly though, during the 1850s there was a growing reluctance among Maori throughout the North Island to sell land, prompted by an increasing number of disputes over land. This shift has been linked to the emergence of the Kingitanga movement, which has been described as

6. Ibid, deed 80

7. White to Native Minister, 28 December 1865, MA 24/22

8. The deed does not give the total acreage of the block.

‘an attempt to stem the tide of European colonization by uniting the tribes into an anti-land-selling confederation’.⁹

3.3 IMPACT OF KINGITANGA

The initial impact of the Kingitanga among Whanganui iwi unfortunately appears to have largely gone either unnoticed or unrecorded. James Cowan notes that both Te Anaua and Pehi Turoa were offered the position of Maori King but, like so many, refused it, and records the attendance of representatives from Whanganui at the Pukawa hui in 1857, where Potatau Te Wherowhero was selected to be King.¹⁰ But the outbreak of war in Taranaki and the Waikato, and the involvement of Whanganui iwi in the fighting, seems to have had a strong effect on their attitudes. The Reverend Richard Taylor wrote in September 1861, in response to a request from the Native Secretary about the state of Maori feeling towards the Government in the district, that:

The Upper Wanganui chiefs appear generally to side with the disaffected, and to sympathize with the King Movement. They openly say that in the case of the King being attacked at Waikato, they should go and join in his defence; but one and all express their kindly feeling to the settlers, and their unwillingness to have the war brought into this district. The lower Wanganui Natives are decidedly attached to the

9. M P K Sorrenson, ‘Maori and Pakeha’, in W H Oliver (ed), *The Oxford History of New Zealand*, Auckland, 1988, p 180

10. James Cowan, *The New Zealand Wars: A History of the Maori Campaigns and the Pioneering Period*, Wellington, 1983, vol 1, pp 153, 445–446

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Government, though alarmed at the military preparations, and especially by the calling out of the militia. Hori Kingi, Te Mawae, Hoani Wiremu, Kawana Paepae and Hakaraia Porako may be called the chief supporters of Government in Wanganui.¹¹

Despite the lack of land purchase activity in the district, it appears that the land question was a matter of concern. In January 1861, Taylor wrote that the subject of the 'land league' was frequently discussed by Maori:

The native has found that every block of land he parts with diminishes his power and increases that of the European and means the final and permanent occupation of the country to the apparent annihilation of his race.¹²

At a large runanga held at Kanihinihi on 2 September 1861 and attended by nearly all the Whanganui chiefs and a few Waitotara and Waikato, the prevailing topic of discussion was to decide whether individual chiefs 'having land outside the European block should be allowed to exercise their rights over it independent of the king's Runanga. This was decided in favour of the landowners.'¹³

Taylor, perhaps influenced by his close association with lower Whanganui Maori who had been baptized by him and supported the Government seems to have portrayed a somewhat optimistic situation. James Coutts Crawford, however, who journeyed up the river in December 1861, recorded matters in a different way:

11. Taylor to Native Secretary, 4 September 1861, AJHR, 1862, E-7, p 29

12. Richard Taylor papers, MS papers 254, vol 2, 24 January 1861

13. Taylor to Native Secretary, 4 September 1861, AJHR, 1862, E-7, p 29

On our arrival in Whanganui I found that the ascent of the river was not altogether a simple matter, but that a good deal of diplomacy had to be exercised. It was not long after the Taranaki war, and the natives inhabiting the upper part of the Whanganui River were in a state of considerable excitement and diversely affected to the Government: some being friendly, some positively hostile, and others neutral. On inquiry among some influential natives who happened to be in the town, I found it was doubtful whether I should be permitted to ascend the Tangarakau, the tributary on which the coal-seams cropped out, but that I might proceed as far as Utapu, where the proprietors of the district resided, and there ascertain their views on the subject.¹⁴

At Parikino, where he spent the night of 21 December, Crawford noted that:

During a great part of the night discussions on political matters went on among the Maori; and we found this was the usual pastime on every pa on the river. The result of the evening's discussion was, that Sir George Grey's policy was approved of, except in the vital points of road-making and giving up the King Movement.¹⁵

It appears that Crawford's visit engendered much discussion among Maori along the river. On reaching the Ngaporo Rapid, Crawford was informed that, because the Tangarakau River was part of the land handed over to the King and because the Government was still at war with him, his permission was required. At Utapu, where a royal taiepa, or toll-bar, had been erected requiring payment of 30 shillings to the King, Crawford received word that he would be permitted to go as far as the mouth of the Tangarakau, but he was subsequently turned back by Pehi Turoa.¹⁶ Similarly, while Pakeha were prevented from travelling up past a certain point on the river, in September 1863 Pehi Turoa had given orders that any Maori going north from the district would not travel lower down the river than Pipiriki.¹⁷

14. James Coutts Crawford, *Recollections of Travel in New Zealand and Australia*, London, 1880, p 93

15. *Ibid*, pp 96–97

16. *Ibid*, pp 106–109

17. John White, MS 75, folder 22, outward correspondence, 14 September 1863, ATL

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The outbreak of war in the North Island then, along with the trend to label Maori as either 'rebel' or 'loyalist', or 'Kingite' or 'non-Kingite', served to effectively polarize Maori along the length of the river into one of these two groups. Such a dichotomy was to be formalised in the New Zealand Settlements Act 1863 and Government officials seemed somewhat preoccupied with the distinction.¹⁸ John White, the resident magistrate for Whanganui between 1862 and 1865, in his correspondence to the Native Minister, continually identified Maori along the river as being either 'Kingites' or 'friendlies'.¹⁹ Taylor too seemed absorbed with the distinction. He noted in January 1861 that 'The great and absorbing event . . . of the last year has been the war at Waitara . . . The entire country appears to be arranged on either one side or the other.'²⁰ By 1862, Taylor had excluded Maori who had taken up arms against the Government from attending his services.²¹

In his first general report, in November 1862, White included a sketch map showing the location of 'friendly' and 'King' Maori. 'Friendly' Maori resided at Raurikia, Matahiwi, Parikino, Atene, Otumaire, Koroniti, Karatia, Mokonui, Ranana, Tawhitinui, Kawaeroa, Roma, and Peterehema, while 'King' Maori resided at Kaiwhaiki, Te Roto, Kanihinihi, Parikino, Atene, Ranana, Peterehema, Pipiriki (where Pehi resided), and beyond.²² Interestingly, there were some places, such as Atene and Ranana, where communities of 'friendlies' and 'Kingites' lived side by side.

18. In September 1865, an Order in Council proclaimed two huge blocks of land under the New Zealand Settlements Act 1863, which provided for the confiscation of these areas. The boundaries of the second of these two blocks, the Ngatiruanui block, ran from the summit of Mount Taranaki in a straight line to Parikino on the Whanganui River, down the river to the coast, and up the coast. Later, in March 1867, the confiscation boundary was moved up the coast to the western boundary of the Waitotara block. See the *New Zealand Gazette*, 5 September 1865 and 15 March 1867.

19. John White, MS 75, folders 19–25, outward correspondence

20. Richard Taylor papers, MS papers 254, vol 2, 24 January 1861

21. Paul Clark, *'Hauhau': The Pai Marire Search for Maori Identity*, Auckland, 1975, p 70

22. 'Sketch of the Coast between the Rivers Manawatu and Patea and of the River Whanganui', November 1862, MA

In the accompanying report, White gave a commentary on the various places he had visited and the attitudes of the Maori there. At Raorikia, he met a young chief, an ‘ex-Kingite’, who offered himself as a native policeman with the support of the people there. White continued:

The King party at Kaiwhaiki then threatened to put the young chief into prison . . . [he] was attacked by 7 men . . . [who] did not succeed in taking him . . . This little affair has caused a strong feeling of disapprobation on the part of those Natives who are friendly to the government, and is looked upon by them as a proof of the despotic feelings of the King Movement.

At Parikino, which White viewed as an important point to be secured and occupied from a military point of view, he recorded that while the people belonged to the ‘friendly natives who resided principally at Putiki . . . [they are] suspicious when a request is made, the political bearing and object of which is not clear to them’. Here White seems to be identifying a group who were unsure and undecided where their ‘allegiance’ lay. Other Maori also seemed undecided or perhaps even unconcerned, and moved their allegiance from one side to the other as circumstances dictated. At Koroniti, the people had ‘gone over’ to the King movement, but White managed to convince them to rejoin the Government.

3.4 THE NATIVE LAND ACT 1862

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An interesting discussion concerning the ‘mana of New Zealand (or landownership)’ took place while White was visiting Peterehema. White explained to the Maori present, who included not only those from Peterehema but people from the nearby settlements of Ikaroa, Ihuharama, and Ngakuratawhiti, that:

I had been sent as Resident Magistrate to try and prevent evil and to assist the ministers of God to teach the people to live in harmony with each other; but that the Government had sent a Bill home to get the Queen’s consent to let the Maori lease or sell his own land to anyone. After the claim by Maoris, to Maori land, had been investigated by, and proved before, the Native Assessors, guided by Maori custom respecting land under the supervision of the European Resident Magistrate . . . the Governor would issue Crown grants to those in whose favour the court gave the land.

According to White, the Maori present were very satisfied with his explanation of the process to be instituted under the Native Land Act 1862.

In closing his report, White concluded that there was a division not only between ‘friendlyes’ and ‘Kingites’ but also between the ‘friendlyes’ themselves:

The natives who are friendly, although of the same Iwi, are Hapus each independent of each other; some of them having joined with the government in the Whanganui war, while the rest were opposed to the government. From this fact there is a jealousy between the chiefs (the leaders of each Hapu) the existence of which will no doubt give the Resident Magistrate much trouble to overcome.

Because of this, White suggested that his residence should be on the inland boundary of the Putiki township, a locality where no one hapu could appear to claim him as ‘their own European’, thus avoiding further jealousies.

In September 1863, White recorded that the situation along the river seemed stable:

The King Natives on the Whanganui River are generally quiet; those holding the extreme opinions of the Waikato movement having nearly all moved towards Waikato

or Tataraimaka . . . [while] The Friendly Natives appear to have nailed their colours to the mast whatever be the issue of the present contention in Waikato.²³

In late October 1863, White noted the return of Pehi Turoa and his people from Taranaki, and Pehi's intention to withdraw from further battle with the military and join the 'friendly natives'. White, however, seemed rather sceptical of Pehi's actions: 'I will not vouch for the peace of this district when he is in it, no matter how . . . he may profess to be the protection of the White People.'²⁴

Very shortly afterwards, it was reported that a number of Topine Te Mamaku's iwi had also returned from Taranaki, because of a lack of food there.²⁵

23. John White, MS 75, folder 22, 14 September 1863

24. *Ibid*, 28 October 1863

25. Major Logan to Assistant Military Secretary, 2 November 1863, AJHR, 1864, E-3, p 3

3.5 PAI MARIRE

The emergence of Pai Marire in the early 1860s was to reinforce the distinctions already apparent among Whanganui iwi. Originating in Taranaki in 1862 under the leadership of Te Ua Haumene, Pai Marire was a peaceful Maori response to the problems and tensions of Pakeha settlement and blended traditional Maori religion with Maori Christianity. The murder and mutilation of Captain Lloyd and six others from the 57th Regiment at Ahuahu, south-west of New Plymouth, in April 1864, however, 'set the tone for contemporary and subsequent attitudes towards the cult; views which held fanaticism and an alleged reversion to barbarity to be the movement's essential elements'.²⁶

Soon afterwards, Matene Rangitauira took Lloyd's dried head to Pipiriki, where the new cult was embraced enthusiastically. Cowan believed that this reception was due to the bitterness felt over the losses these people had sustained at Katikara, Taranaki, in 1863, when the casualties inflicted by the troops were nearly all Whanganui men.²⁷ The cult gained many converts among the upper river iwi, but Matene was determined to spread the new religion among the lower river iwi as well. They, however, were opposed to the idea, and challenged Matene to a battle on Moutoa Island in the river. They also feared that Matene wished to attack the township.

3.6 CONFLICT WORSENS

At the battle, which took place on 14 May 1864, Matene and about 50 of his followers were killed, while nearly as many were wounded. Of the lower river iwi, 15 were killed and 30 wounded. Clark has concluded that this was an ‘almost ritual encounter’, where:

tribal animosities seem to have played a larger part than a desire to threaten or protect the Pakeha settlers of Wanganui. The battle was an illustration of generations-old enmity between the inland Ngatihau tribe based on the upper Wanganui valley and the coastal Ngarauru people with their control over river traffic and monopoly of missionary and other European contact.²⁸

Similarly, Cowan and Smart and Bates contend that what was at stake was the mana of the river and no taua would ever be permitted to force a passage down the river.²⁹

Despite the divisions among the iwi of the river, there was consensus over the fate of the prisoners taken during and after the battle. Both Hori Kingi and Pehi Turoa (who himself did not fight, though many of his iwi did) did not want the prisoners taken away by the Government. Pehi Turoa told Superintendent Featherstone that ‘your share [of the prisoners] is the great number killed’, while Hori Kingi argued that:

26. Clark, p 12

27. Cowan, vol 2, p 30

28. Clark, p 15

29. G Smart and A Bates, *The Wanganui Story*, Wanganui, 1972, p 104; Cowan, vol 5, p 36

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We have fought for the Queen and for the protection of the Pakehas. We have killed in the battle of Moutoa many of our nearest relations and friends. We have taken others of them prisoners. Have we not done enough for the Queen and our friends the Pakehas?³⁰

In June 1864, White was informed by James Booth that he did not think that there would be any more fighting up the river, but fighting continued between the two groups until early 1865.³¹ The heaviest fighting took place at Ohoutahi, near Hiruhirama, in February 1865. The prominent chiefs involved included Pehi Turoa, Pehi Hitaua, and Topine Te Mamaku among the Hauhau, and Hori Kingi Te Anaua, Mete Kingi, and Hoani Wiremu Hipango (who was killed at Ohoutahi) on the other side. Shortly afterwards, at the end of April 1865, the military established a garrison at Pipiriki to prevent the Hauhau from the upper river coming down to threaten the Wanganui township. Pipiriki was selected because it was:

a convenient line of demarcation between the Hauhau tribes and those friendly to the Europeans; it was also the point at which overland tracks from the eastern part of the island reached the great inland waterway . . . It was a kind of advanced frontier post, beyond which the chiefs of old Maoridom held undisputed rule. The upper waters of the Wanganui were an almost unknown region to the pakeha; even in the 'sixties' very few except adventurous colonial travellers, missionaries, and occasional military officers had ventured up as far as the Manganui-o-te-Ao or to Taumarunui by canoe.³²

Furthermore, at a meeting held in Wanganui in October 1864, the superintendent of the province had told Kaiwhaiki Maori that if they joined 'in the fanaticism of Te Ua' they would have to move either to Pipiriki or to beyond Waitotara and not live among friendly Maori.³³ This, accompanied by Pehi's directive of September 1863, meant that Pipiriki was seen by both Maori and Pakeha as the dividing line between loyal and rebel.

30. 'Report by His Honor the Superintendent of Wellington, of the Battle of Moutoa, and Subsequent Events on the Wanganui River', not dated, AJHR, 1864, E-3, pp 82-83

31. John White, outward correspondence, 9 June 1864, MS 75, folder 24

32. Cowan, vol 5, p 37

33. John White, outward correspondence, 9 June 1864, MS 75, folder 24

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In July, fighting commenced again and the garrison at Pipiriki was besieged for 12 days by the Hauhau, who included all the upper Whanganui iwi from as high up as Taumarunui, as well as many Ngati Maniapoto, Ngati Raukawa, and Ngati Tuwharetoa. The seige was raised when support and supplies for the garrison arrived from down river, and the Hauhau retreated into the bush. Some months later, Pehi Turoa took the oath of allegiance and, by August 1865, the bulk of the Pipiriki garrison was withdrawn. Hori Kingi Te Anaua visited Mangaio, up river from Pipiriki, in 1865, and when he was opposite Ohinemutu he made a knot in a shrub called the Taunoka and said, 'I have made this knot that there may be peace inland of this place'.³⁴

34. Notes of native meetings held in upper Wanganui, November, December 1869, AJHR, 1870, A-13, p 3

3.7 AN 'UNEASY TRUCE'

For the next four years, campaigns by Lieutenant-General Cameron (in 1865), Major-General Chute (January–February 1866), and Major McDonnell (June–November 1866) moved the focus of conflict northwards from the town of Wanganui into southern Taranaki. Belich credits the latter two campaigns with 'intimidating and weakening the local Maoris' and achieving an 'uneasy truce' on the West Coast.³⁵ Conflict was renewed in June 1868 with Titokowaru and Nga Ruahine, Tangahoe, and Pakakohe hapu of Ngati Ruanui, and it continued until February 1869. In late 1868, Titokowaru's steady advance down the coast towards Wanganui caused great alarm, and both settlers and soldiers believed a full-scale attack on the town was imminent.

The role played by Whanganui iwi in supporting Titokowaru is difficult to assess. Belich states that around July 1868 the Turoa family and Topine Te Mamaku informed their 'anxious kupapa kin'³⁶ that they did not intend to support Titokowaru.³⁷ Yet Titokowaru received an important symbolic gesture from the

35. James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*, Auckland, 1986, p 208

36. Friendly Maori during the course of the wars were called 'kupapa', although the term literally means to be passive or neutral. See Herbert W Williams, *A Dictionary of the Maori Language*, 7th ed, Wellington, 1988.

37. James Belich, *'I Shall Not Die': Titokowaru's War, New Zealand, 1868–69*, Wellington, 1989, p 75

upper Whanganui chief Te Kere, who sent him a white horse said to be stolen from Keepa Te Rangihwinui.³⁸

The division already apparent in the Whanganui iwi seems to have been carried through with the establishment in August 1868 of a 'Native Contingent' of Whanganui kupapa, which was to fight alongside colonial forces. At this time the kupapa force numbered 150, but it rose to 457 in early November. It is important to remember, as Belich notes, that the motives of these Maori were mixed, and that only a minority were 'thoroughly committed to the colonial cause'. He does add, though, that this minority 'consisted of about 110 experienced warriors under Kēpa te Rangihwinui . . . , and they were an important addition to colonist strength'.³⁹

While the 1850s and 1860s in the Whanganui district were characterised by very little in the way of land purchase activity, they were a period of intense turmoil not only within this area but throughout the whole North Island. War and the emergence of the Kingitanga and Pai Marire movements contributed to the disorder and chaos. All this served to maintain the divisions among Whanganui iwi. The identification of upper river iwi as Kingites, Hauhau, and rebels, and lower river iwi as non-Kingites, Christians, and kupapa, can be criticised as being too simplistic and ignoring the wide variety of motivations Maori had for their actions during this period. Conversely, it has been argued that these divisions had existed for generations and

38. *Ibid*, p 78

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were related to control over the river and, later, contact and alliances with Europeans, be it for trade, religious, or political matters, and that the events of this period acted to highlight the divisions.

39. Belich, *The New Zealand Wars*, p 238

CHAPTER 4

1870 TO 1880

4.1 PEACE

The events of the 1850s and 1860s delayed the expansion of European settlement into the interior of the Whanganui district. By the early 1870s, however, it was clear that the barriers were collapsing. The correspondence of Richard Woon (the resident magistrate for upper Whanganui from 1870 to 1880) documented the emergence of a new mood among up-river leaders such as Topine Te Mamaku. Woon met Te Mamaku in January 1871 and was confidentially informed by him that he was through with fighting and wished that the Whanganui tribes were again united. Indeed, Woon noted that he had:

been assured by all the principal chiefs, Pehi, Tahana, Topia, and Topine, that the up river Natives are desirous for peace, and that they have no intention of supporting the Waikato, and that they are anxious the Wanganui Tribes should again become a united people under the Government.¹

Te Mamaku had even visited Wanganui to present Te Mawae with a magnificent waka as a token of respect for his deceased brother, Hori Kingi Te Anaua.

The early 1870s witnessed a series of hui that attempted to resolve the divisions among Whanganui iwi and formulate a coherent policy on land selling. It was at one of these hui, at Te Aomarama in January 1871, that Woon had met with Te Mamaku. Another was held at Parikino in May 1871 and was attended by most of the Whanganui and Ngatiapa chiefs and by representatives from Ngati Raukawa and Ngati Whiti. As reported by Woon, the aim of this hui was to arrive at an understanding of the boundaries of the land owned by these iwi, that is:

of the territory lying between the Wanganui River on the one side, and the Rangitikei on the other, and stretching up country from a point on the Rangitikei River, inland to the base of Tongariro.²

The boundaries were, ‘for the most part’, agreed to, in order to prevent any future misunderstanding, and for the reason proposed by Keepa Te Rangihiwini (Major Kemp) of securing a subdivision of the land belonging to the Whanganui iwi among the various hapu and their members. In fact, this meant:

the carrying out of a scheme having for its object the individualisation of the Native title, and the occupation of the land by a Native Proprietary, the selling of any portion of the block being strictly prohibited. Major Kemp is the originator of this scheme, and the Meeting included Tahana, Topia, and other influential chiefs, . . . [who were] entirely with him, and expressed themselves accordingly.

Despite the small number of land purchases in this district to date, Maori exhibited a strong desire to prevent further alienations and control the administration

1. Richard Woon, letter book, 6 January 1871, MA Wanganui, 2/1
2. Woon to Halse, 14 June 1871, MA Wanganui, 2/1

of their own land. Kemp's 'scheme' was an obvious precursor to the 'trust' he was to establish later.

Another hui was held at Koroniti in February 1872 and was attended by some 300 Maori, 'including residents from all parts of the river from Putiki to Iruharama'.³

Here again, the idea of 'setting aside' land was discussed:

The object of the meeting was to set aside a tract of country, some eighteen miles in length, by twelve miles in breadth, situated between the Whanganui and Turakina Rivers, and extending from a point near Atene to the neighbourhood of Ranana (a strip of very rough and hilly country), as a reserve in perpetuity to their descendents. The reason assigned for adopting such a course is an apprehension which exists amongst the Natives here (one founded on reason), that unless some steps are taken to check the wholesale alienation of their lands, thereby rendering themselves homeless and poverty stricken. The meeting seemed to be unanimous in the matter; . . . [although] adjustment of the boundaries, . . . [was] somewhat disputed.⁴

Woon recommended that, should the Government approve of this action, Whanganui iwi should be advised to have the land surveyed and mapped, with a view to having it brought under the operation of section 17 of the Native Lands Act 1867. This section stated that a certificate of title would be issued 'in favour of persons interested . . . not exceeding ten in number . . . and the court shall cause to be registered in the court the names of all the persons interested in such land'. It went on to state that no portion of the land could be alienated unless it were subdivided first, and this would be possible only if agreed to by a majority of those found by the Native Land Court to have interests in the land. It was an attempt to redress the defect in the 1865 Act that enabled land to be vested in 10 persons, ignoring the interests of the majority. However, the Waitangi Tribunal has concluded that:

Although the [1867] Act was passed with the object of protecting the whole of the owners, the fact of its being only requisite that no more than ten should be inserted in

3. Woon to Assistant Native Secretary, 21 February 1872, AJHR, 1872, F-3A, p 18

4. Ibid, p 19

the body of the certificate perpetuated the evil effects of the Act of 1865, as these ten individuals could lease the land and appropriate the proceeds.⁵

5. Waitangi Tribunal, *Pouakani Report 1993*, Wellington, Brooker's Ltd, 1993, p 375

Mete Kingi's 'peace meeting' took place at Putiki in April 1872, its object being the confirmation of peace and unity from the source of the river to its mouth. Woon described this as being the third meeting of its kind since January 1871, where the kaupapa was the 'extension of peace and quietness amongst all those tribes who had hitherto kept aloof, and had been engaged in hostilities against the Queen'.⁶ The first meeting had been at Te Aomarama and the second at Taumarunui. Present at Putiki were Paetahi, Rewi Maniapoto's cousin, and other Waikato Maori, along with Topine Te Mamaku, Pehi Turoa, and Tahana. A symbolic ceremony took place whereby a dogskin mat and a blanket, representing Maori and Pakeha clothing, were produced and wrapped around a female child, who was figuratively spoken of as the emblem of peace. Tahana then handed the child over to Topine, signifying that all Whanganui Maori had again united for peace.

While Maori were united on this matter, the issue of opening up the country for settlement was a vexed one. A dispute over surveying in the Murimotu area was discussed but no agreement was reached, Woon predicting that the question of disputed boundaries and the prosecution of surveys would lead to 'the peace of the country' being 'disturbed'. The other topic keenly debated was whether to let gold prospectors into the district; Topine was firmly in favour but Pehi, Mete, Kemp, and others were strongly opposed to it.

None the less, Woon's annual report of July 1872 painted a favourable picture of 'the state of Native feeling'. He recorded that great progress had been made towards securing the establishment of peace and goodwill amongst Maori and towards Pakeha:

6. Woon to Native Minister, 23 April 1872, AJHR, 1872, F-3A, p 3

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The feeling of animosity and jealousy which formerly exhibited itself in so marked a manner on the part of many of the Natives of my district, towards the Europeans in general, has quite died out, and there are evident signs of a desire on their part to live in terms of friendship with the pakeha.⁷

In 1873, Woon reported that nothing had occurred to weaken the feeling of confidence and friendship shown by Maori to Pakeha, and that instead such a feeling had increased.⁸ Woon continued to praise the adherence to the Government of such men as Te Mamaku, Pehi, Tahana, and others of rank and power who held sway over Maori, a matter he saw as being of much importance and going a long way towards weakening and breaking down opposition to the Government.

4.2 AN INCREASE IN LAND PURCHASE ACTIVITY

4.2.1 Land for ‘colonization and settlement’

These attempts by Maori to come to an agreement over their land were a response to a renewed and vigorous effort by the Government to open up land for settlement. Interest in expanding the frontiers into the interior was boosted by Julius Vogel’s massive scheme of immigration and public works following the wars and the resulting economic stagnation of the 1860s. His aim was to stimulate development by increasing the colony’s population, improving communications through a network of roads, railways, and telegraph lines, and speeding up the acquisition of land from Maori, who were seen as ‘monopolising’ huge tracts.

7. Woon to Native Minister, 16 July 1872, AJHR, 1872, F-3, p 14

8. Woon to Under-Secretary of Native Affairs, 10 May 1873, AJHR, 1873, G-1, p 17

In this district, it was the Government's intention to acquire as much land as possible between Whanganui and Taupo for the purpose of 'colonization and settlement'. In September 1871, James Booth received instructions from Donald McLean to communicate with the chiefs of the area to 'ascertain if they are inclined to alienate any tract of land available for settlement'.⁹ By July of the following year, Booth was able to report that he was negotiating for the purchase of a number of areas including a 'very extensive block of land' at Murimotu, some large blocks between the Mangawhero and Turakina Rivers and the Whanganui River and Kai Iwi Stream, and a block between the upper Whanganui River and Mokau.¹⁰

The increase in land purchase activity in the district increasingly concerned local Maori. In June 1874, Woon noted that the land question:

has again become of paramount importance to the Native mind, and agitates and perplexes them in an inordinate manner. Owing to the enhanced value of lands in these districts, in consequence of the extension of European settlement and Government expenditure, and an increased demand resulting therefrom for further acquisition of territory, either by purchase or lease, the Natives are becoming every day more alive to the value and importance of their landed estates, and an evident anxiety exists as to how they can best administer the same, so that they may secure in perpetuity a large portion of their landed property for the benefit of themselves and their descendants.¹¹

Woon's response was to continue to point out to Maori the desirability of selling large areas of their land to the Government so they might be opened up for Pakeha

9. McLean to Booth, 7 September 1871, AJHR, 1873, G-8, p 27

10. Booth to Under-Secretary of Public Works, 12 July 1872, AJHR, 1873, G-8

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settlement. The result, he told Maori, would be an increase in the value of the land they retained.

4.2.2 Divisions between Maori

11. Woon to Under-Secretary of Native Affairs, 16 June 1874, AJHR, 1874, G-2, p 14

Despite a feeling among some Maori to stop land selling altogether or to lease only, their determination could not be maintained: 'there are many who are not indisposed to sell at a fair price, to procure money to satisfy their increasing wants and to meet their many liabilities and engagements'.¹² This meant that there were always willing vendors. In July 1875, Booth, as the principal land purchase officer, was able to report that negotiations were under way for the lease or sale of the Murimotu, Tokomaru, Pikopiko 3, Wanganui Kai Iwi, Kirikau, Retaruke, Kawautahi, Te Kopanga, Hauhungatahi, Maungaporau, and Ngarakauwhakaara blocks in the Whanganui and upper Whanganui districts.¹³ Over £3500 had already been spent on these blocks.¹⁴ In the period between the passing of the Immigration and Public Works Act 1870 and 30 June 1875 some 743,206 acres came under negotiation in the Whanganui district, while a further 63,800 acres were purchased or leased.¹⁵ Those blocks purchased included the Heao, Mangahouhi, Paraekaretu, and Pikopiko 1 and 2 blocks, all of which were acquired under the Immigration and Public Works Act 1870.¹⁶ Booth was always quick to defend the amount of time he spent negotiating the purchase of proportionally small amounts of land: 'it must be borne in mind that each separate small block, although possibly containing but a few hundred acres entails as much work as a block of a hundred thousand acres would do'.¹⁷

Booth saw Topine Te Mamaku's offer to sell the Kirikau and Retaruke blocks in the upper Whanganui district as particularly significant. Both blocks passed through the Native Land Court in March 1876 and the Kirikau block was immediately purchased by the Crown. The acquisition of this block was of considerable importance because 'it is in the heart of the country, and the owners not more than two or three years ago were Kingites and Hauhaus, and, as such, opposed to the sale of lands'.¹⁸

Topine Te Mamaku, previously regarded as a 'rebel chief', had now declined to have anything to do with the Kingitanga and was having land in the area surveyed ready for sale to the Government.¹⁹

By the mid-1870s, a number of Native Land Court sittings had been held in the district and a considerable quantity of land had been sold to the Government. As a result, many of the younger chiefs were living well, 'in weatherboard houses,

12. Ibid

13. Booth to Under-Secretary of Native Affairs, 18 July 1875, AJHR, 1875, C-4A, p 2

14. 'Detail of Expenditure to 30th June, 1875, on Account of Land Purchases and Leases in the North Island, under the Immigration and Public Works Acts of 1870 and 1873; Part II: Negotiations in Progress', AJHR, 1875, G-6, p 23

15. AJHR, 1875, G-6, p 6

16. 'Detail of Expenditure to 30th June, 1875, on Account of Land Purchases and Leases in the North Island, under the Immigration and Public Works Acts of 1870 and 1873; Part I: Negotiations Completed', AJHR, 1875, G-6, p 15

17. James Booth, 'Report on Land Purchase Operations on the West Coast', 22 July 1875, MA MLP 1/4

18. Booth to Under-Secretary of Native Affairs, 30 June 1876, AJHR, 1876, G-5, p 12

running sheep, ploughing with draught horses and (Booth regretted) giving champagne parties and drinking too much'.²⁰ The latter particularly occurred after a court sitting:

If judgment has been given on a long-disputed question, both parties (claimants and counter-claimants) vie with each other as to who can give the most expensive entertainment, in order to prove to each other and to the world that no ill-feeling exists between them. In this manner hundreds of pounds have been squandered away . . . and I am afraid we must not look for any improvement in this respect whilst the Natives possess so large an extent of waste land, which can at any time be turned into ready money.²¹

4.3 MAORI CONCERNS AND 'REPUDIATION'

4.3.1 The Kaiwhaiki hui

Dissatisfaction among Whanganui Maori over many issues concerning land made them highly receptive to the ideas of the 'Repudiation' leader, Henare Matua of Ngati Kahungunu. Matua visited the area in May 1874 and a hui attended by some 800 people was held at Kaiwhaiki, about 12 miles up the river. It struck Woon that Matua's 'movement' was a final effort by Maori to:

19. Buller to Booth, 17 June 1876, AJHR, 1876, G-5, p 13

20. Alan Ward, 'Whanganui ki Maniapoto: Preliminary Report to the Waitangi Tribunal', report commissioned by the Waitangi Tribunal for Wai 148 and related claims, March 1992, p 22

21. Booth to Under-Secretary of Native Affairs, 7 June 1873, AJHR, 1873, G-1, p 16

stem the tide of advancement on the part of their European neighbours, as they are becoming alarmed at the inroads made upon them and their domains by the continued acquisition of large tracts of country by the Government in the interior, and they do not like the idea of losing the authority and power formerly held by them over the inland districts of this Island, one of the proposition's of Henare Matua being that all land selling should cease, and also leasing, till they become wiser and better able to look after their own interests.²²

Matua's grievances targeted Maori concerns. He felt that the Native Land Court should be abolished, and he was troubled by the levying of rates on Maori land, the unequal representation of Maori in Parliament, Crown grants, and the traversing of Maori land by railways and telegraph wires. Woon concluded that Matua's advice 'had its effect upon the minds of the multitude', as he succeeded in convincing them that they were being victimised by their ignorance of Pakeha laws. The majority of those present were impressed with Matua's views and some promised active support (about 320), while some adopted a wait-and-see attitude and others stayed aloof.

The hui lasted eight days and Woon was convinced that evil would result:

Disaffection, bordering on rebellion, is at the root of this agitation, and the effect has already been to unsettle the Natives, and influence them with the belief that our rule over them is an unjust and repressive one. Should this combination gain the support of any more of the tribes, and its adherents increase in number . . . , the result of this organization is likely to prove dangerous to the peace of the country, for it can be looked upon as nothing more or less than a fresh development of the Land League and King Movement.

4.3.2 Runanga rule

22. Woon to Under-Secretary of Native Affairs, 16 June 1874, AJHR, 1874, G-2, pp 15–16

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A year later, Woon reported that a Maori runanga was constantly meeting to settle land disputes and other offences. This was a similar ‘institution’ to the komiti Matua formed around 1870 in response to the disputed sale of the Seventy Mile Bush in Hawke’s Bay.²³ Woon had encountered a runanga sitting at Parikino in the assembly house where he was to hold his Resident Magistrate’s Court. His response was to express his ‘disapprobation’, however, he did admit the runanga had done some good by promptly investigating and settling, to the satisfaction of the Maori concerned, quarrels over land that ‘might otherwise, through the tardy operation of the Land Court, have resulted in a breach of the peace’.²⁴ The runanga had also empowered itself to grant certificates of title and to take fees, thus totally bypassing the operation of the Native Land Court. In 1878, Woon noted that the runanga was still operating and was partly responsible for a decrease in the number of cases coming before his court.²⁵

4.4 THE MURIMOTU–RANGIPO DISTRICT

4.4.1 A lease is sought

One of the areas upon which much interest was focused was the Murimotu–Rangipo district. Located to the south and east of Mount Ruapehu, the district was considered important not only for its grasslands but also for its vital position in opening up the

23. See Keith Sinclair, *Kinds of Peace: Maori People after the Wars, 1870–85*, Auckland, 1991, pp 99–111

24. Woon to Under-Secretary of Native Affairs, 21 May 1875, AJHR, 1875, G-1, pp 11–12

interior from the Whanganui side. It was hoped that leasing in this area would later be followed by purchases. Furthermore, this area lay across the proposed routes for roads and railways.

Negotiations began in 1872, with James Buller attempting to negotiate a lease for part of the Murimotu. He attracted the attention of two runholders, Morrin and Studholme, who began to offer higher rents to Maori. These two wished to acquire the whole area (approximately 1½ million acres) with a view to forming a land company in England. They were represented by W S Moorhouse, who also represented Russell and Howard, and Walker and McDonnell, other parties interested in the same area. It is unclear when these parties began grazing sheep and cattle on the land in question, but it is certain that they were doing so in advance of the leases being made. In June 1874, Kemp issued a public notice giving Europeans who had depastured stock on land in the Murimotu 15 days to give him a decision with regard to leasing arrangements.²⁶

The interest being shown by private parties prompted further action. In August 1873, Buller was offered a commission by Fitzherbert, the superintendent of the province, of twopence per acre of land along with a salary of £300 per annum.

25. Woon to Under-Secretary of Native Affairs, 28 May 1878, AJHR, 1878, G-1, p 15

26. Notice to public, 4 June 1874, MA 13/50 pt A

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Buller was instructed to obtain the land at the best price he could, and not to let it fall into the hands of Morrin and Studholme.²⁷

This was, however, to be a difficult task. In early November 1873, having been in the interior for two months, Buller wrote to Fitzherbert that he believed little more could be done until land was surveyed and passed through the Native Land Court, but that he would continue moving among Maori and would keep them informed of his intentions, so preventing any agreement being made with other Pakeha. Buller was at pains to inform Fitzherbert that:

all negotiations with Maoris are tediously long, and that nothing will induce them to deviate from their usual mode of dealing; so that frequently two persons might do a great deal of work absolutely necessary for future success, without having much to show for it.²⁸

At this time, Booth was also negotiating on behalf of the Government for an area of 25,000 acres in the Murimotu.²⁹ Like Buller, Booth commented on the ‘considerable delay caused by dissensions amongst the claimants’:

I suggested [to Maori] both personally and through other Officers of the Department that the most direct way out of these difficulties was, to have the land surveyed and passed through the NLC [Native Land Court].³⁰

4.4.2 Advance payments

27. Memorandum on Murimotu, not dated, MA 13/50, pt A

28. Buller to superintendent, 3 November 1873, MA 13/50, pt A

29. ‘Negotiations in Progress’, AJHR, 1873, C-4, p 13

30. James Booth, ‘Report on Land Purchase Operations on the West Coast’, 22 July 1875, MA MLP 1/4

To counter the delays, Booth made payments ‘on account’ to Topia Turoa and other Maori in attempts to secure later purchases.³¹ Turoa received £30 in June 1875 ‘on account of Murimotu–Patea lease’, a further £5 a month later, £32 in September 1876, and £20 in January 1877.³² The payment of advances to individuals, or ‘laying ground-bait’ in ‘preparation for the land being put through the Native Land Court and transferred to the prior purchaser of the interests’, as Ward terms it, was to become a standard practice for land purchase agents.³³ In 1879, Booth was congratulated by Woon for being so successful in his negotiations and having, ‘by advances made, secured the pre-emptive right of purchase by the Government over hundreds of thousands of acres of the interior’.³⁴

Such a practice was not illegal. The Native Land Court had been given the power to legitimate arrangements reached before title had been determined. Under section 107 of the Maori Land Act 1873, the court could give effect to ‘inchoate agreements’ between Maori and land purchase commissioners:

And whereas arrangements have been made by officers duly authorized to obtain the cession of Native Land to Her Majesty with Natives owning or pretending to own Native land, and in some cases money has been paid on account of such arrangements, but no perfected agreements have been made nor possession acquired by Her Majesty . . . Be it enacted that it shall be lawful for the Court, to investigate the title to and the interests in such land in the manner prescribed in the Act, and the Court shall make such orders, either for the completion of the agreement . . . , or for the apportionment of the land between the parties interested therein . . . , or for the repayment by the Natives who shall be found to have received the money as aforesaid . . . , or it may by such order declare that such land or any part thereof has been duly ceded to Her Majesty, and all such orders shall be good and effectual.

31. Ward, p 23

32. Advances, MA 13/50, pt A

33. Ward, p 18

34. Woon to Under-Secretary of Native Affairs, 24 May 1879, AJHR, 1879, G-1, p 9

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The provision for the repayment of money by Maori was taken seriously. In an 1877 return prepared by Booth that listed the blocks of land on which advances had been made, Booth remarked that there were a number of blocks for which he proposed to accept refunds, apparently, it seems, because difficulties existed, largely to do with the carrying out of surveys.³⁵ On a separate occasion, Booth remarked:

I am very pleased to be able to report that in almost every instance in which former advances have been made on account of . . . Blocks the Natives have acknowledged their liability, and have allowed deductions to be made. Thus in completing the purchases of . . . seventeen Blocks . . . I have recovered the sum of £1552.15.3. These advances have been made by various land purchase officers and embrace a period of several years.³⁶

Subsequent legislation, namely section 6 of the Native Land Act Amendment Act 1877 and section 11 of the 1878 Amendment Act, extended the principle in respect of private parties as well as the Crown. As Ward has pointed out, ‘It is a matter for most serious consideration as to whether these proceedings breach the rangatiratanga principle of the Treaty.’³⁷

Two years later, under section 56 of the Native Land Court Act 1880, the court was given the power to ‘give effect in the determination of any case’ to ‘arrangements voluntarily come to amongst the Natives themselves’. Later again, under section 59 of the Native Land Court Act 1886, it became lawful for the court to:

give effect to any arrangement voluntarily come to by the Natives and Europeans concerned therein, and to decide such proceedings in accordance with such arrangement. Such decision shall be effectual and binding as if arrived on the evidence taken.

35. ‘Blocks of Land on which Advances have Been Made, but which Difficulties Exist in the Way of Completing the Purchases’, AJHR, 1877, G-7, p 22

36. James Booth, ‘Report on Land Purchase Operations on the West Coast’, 22 July 1875, MA MLP 1/4

37. Ward, p 20

In March 1874, an agreement approved by the Native Minister was reached between the provincial government and Moorhouse, as agent for Morrin and Studholme, whereby the Government promised them a lease of 14 years over 75 percent of the land that the Government acquired from the Maori owners, if Morrin and Studholme refrained from all efforts to lease or purchase land from the Maori for themselves.³⁸ McLean, as Native Minister, after inquiring into the matter, had decided that:

the readiest and cheapest way, to acquire the land for the Government (and thus open the way to getting more) was by effecting a compromise with the parties who had been in negotiation, and who could throw a great deal of obstructions in the way of the Government getting it.³⁹

In addition, as Ward concludes:

38. Moorhouse to Native Minister, 25 March 1874, AJHR, 1875, C-6, p 2

39. Memorandum on Murimotu, MA 13/50, pt A

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McLean, probably concurring with Booth's and Fitzherbert's view of the importance of the area, and influenced also by Woon's reports of potential conflict among the Maori claimants, proposed that negotiations cease till the land had been through the Court.⁴⁰

In September 1874, a meeting was held at Government buildings in Wellington to discuss the situation. Those present included McLean, Kemp, Moorhouse, Winiata Te Puhaki, Nehenera Tekahu, Aropeta Haeretuterangi, and Aperahama Tahumiarangi. To that date, a block of 46,000 acres, the Murimotu block, had been surveyed and passed through the Native Land Court. Kemp described a further three blocks of land, one at Ruanui containing an estimated 40,000 acres, another of 100,000 acres adjoining inland Patea, and another of 15,000 acres.⁴¹ After some debate, it was agreed to lease the 46,000-acre block to the Government, the terms being £10 per 1000 acres for 14 years, and £11 per 1000 acres for the remaining seven years of the lease, with reserves being made for Maori use. Kemp had asked for a yearly rent, starting at sixpence per acre and to be raised every five years. The block of land was then to be re-let to various companies.

The issue of whether or not to lease, and who had the right to do so, engendered much discussion among Maori. Whether or not one agreed to lease, under the Native Land Court system it was necessary to establish one's claim to the land in question in order to be recognised as an owner. If leasing were seen as being the lesser of two evils – the evils being leasing and selling – this was a false assumption. Title still had to be determined and a list of owners prepared, which facilitated negotiations for leases, to be followed by purchases.

40. Ward, p 23

41. 'Notes of a Meeting Held at the Government Buildings on the 2nd September, 1874, re Murimotu', AJHR, 1875, C-6, p 3

Debate over the Murimotu area was extensive, largely because the interests of several groups intersected there, including those of Whanganui, Ngati Kahungunu, and Ngati Tuwharetoa. At the 1873 Whanganui court hearing, Topia Turoa presented a claim for part of the land on behalf of what George describes as ‘all his tribes – Ngati Tama, Ngati Tuwharetoa, Ngati Whiti, Ngati Te Ika and Patutokotoko’.⁴² Renata Kawepo of Ngati Kahungunu was also concerned about his and his iwi’s interests in the area. In September 1874, he wrote to McLean asking whether Kemp had ‘handed Murimotu over to the Government’. He went on to advise McLean that if Kemp had done this, ‘it is a very wrong proceeding as he and I came to a decision between ourselves about that land’.⁴³ What this decision was, though, Kawepo does not say. However, he and Kemp did seem to have come to some arrangement. In May 1876, Woon reported that he had been informed by Kemp himself that, on a recent visit to see Kawepo in Napier, Kawepo had agreed to leave the matter of the Murimotu boundary line between the Whanganui and Kahungunu iwi to the guardianship of Kemp.⁴⁴

As Woon was to point out, though, the ownership of the area was also ‘a bone of contention . . . amongst the Whanganui Hapu themselves’.⁴⁵ The survey of the Murimotu block ordered by Aropeta Haeretuterangi (Rangipotaka) in 1872 was obstructed by Winiata Te Puhaki and his people (Rangituhia).⁴⁶ The dissension was to lead to a number of petitions being presented to Parliament. One from Aropeta Haeretuterangi and a number of others stated that, since the Native Land Court had awarded the block in 1873 to the petitioners and some other applicants, they had

42. Merylyn George, *Ohakune: Opening to a New World*, Ohakune, 1990, p 31

43. Renata Kawepo to McLean, 16 September 1874, MA 13/50, pt A

44. Woon to Under-Secretary of Native Affairs, 26 May 1876, AJHR, 1876, G-1, p 34

45. Woon to Halse, 6 August 1872, MA Wanganui, 2/1

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discovered that some of the Maori included had no interest in the block and were now attempting to sell it. The chairman, John Bryce, reported that such an assertion could not be clearly established and the court had not yet given an absolute judgment on the matter. He continued:

All that the Court has done appears to be that it has determined who are the persons who, according to Native custom, are entitled to have their names entered as owners of the block in the records of the Native Land Court. Before the judgment of the Court can finally be given it will be necessary to determine the names of the ten persons for insertion on the certificate of title. Several attempts appear to have been made since 1873 to do this, but without success, in consequence of differences among the Native owners. It will be impossible, even if considered necessary, to comply with the prayer of the petitioners until such time as the final judgment of the Court has been given.⁴⁷

A similar petition from Winiata Te Puhaki stating that the names of people who had no claim to the land had been inserted, and that names that should have been inserted were omitted, received a similar response from the committee.⁴⁸

4.4.3 Hui at Ranana and Aomarama

46. George, p 31. Both of these were 'sub-groups' of Ngati Rangi.

47. 'Report on Petition of Aropeta Haeretuterangi and Others', 17 October 1877, AJHR, 1877, I-3, p 28

48. 'Report on Petition of Te Winiata Te Puhoki', 29 October 1877, AJHR, 1877, I-3, p 37

In 1876, hui were held at Ranana and Aomarama to discuss the Murimotu lease. Here Kemp gave his reasons for approving the Government lease. Most importantly, in his eyes, was that such a lease secured both Maori and Pakeha against loss. He maintained that if Pakeha were allowed to lease directly from Maori, there would be no guarantee that Maori would regularly receive their rent or that Pakeha would be permitted to remain in peaceable possession of the land they leased. Kemp was also concerned that if a Pakeha did not hold a legal lease he would be at the mercy of anyone who might outbid him, and therefore he would not be inclined to spend money on the improvement of the property, which would be contrary to the interests of the lessors. The major advantage of the present arrangement, Kemp believed, was that the whole property, with improvements, would revert to the original owners at the end of 21 years, and the lease would thus be more secure and the improvements greater in consequence.⁴⁹

At these hui, the leasing of four blocks of land was discussed; the Ruanui block (40,000 acres), the block inland at Patea (100,000 acres), the Murimotu block (46,000 acres), and the Rangiwaea block (15,000 acres). It appears that much confusion reigned over the existence and nature of the leases. Again and again, Maori insisted that they knew nothing of lease arrangements: Paora Patapu, Hunia Mei, Poma Haunui, and Te Oti Pohe, among others, stated that they knew nothing about the lease for the Rangiwaea block. Mei, however, admitted that he did agree to the depasturing of sheep on the Murimotu and Rangiwaea blocks for 'grass money', but not rent.

The question of the surveying of the areas of land being leased was to the forefront of the discussion. It was suggested by Patapu that no leases should be signed until the surveys were complete and the land had passed through the Native Land Court. When Kemp drew a line on the marae and called upon those in favour of leasing to take one side and those opposed to take the other, the numbers were about equal. But many of those opposed to leasing said that they were not opposed to leasing to the Government, they just wished to have surveys made first 'in order to settle the question of ownership'. Booth's reply was that:

49. Booth to Under-Secretary of Native Affairs, 1 April 1876, MA 13/50, pt A

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You ought to have thought of the question of surveys before you allowed any members of your tribes to agree to lease to private speculators. The majority of you seem to be in the dark as to what was going on hence the present dissatisfaction.

By the close of the hui, the agreement drawn up in Wellington had 106 signatures put to it, but there was still much disagreement over the issue of leasing. Hohepa Tamanuitu of Ngati Tuwharetoa, who considered that his tribe had a claim to the land in question, stated that they preferred to wait until the Native Land Court decided title:

I am of Topia's opinion, let the land be first surveyed, we shall then know what we are doing. Let the Surveyors be sent as soon as possible.

Topia Turoa also declared his opposition. He asked that his sister's and his children's signatures be struck off the agreement because they signed without his permission. When Booth replied that this was a matter that would have to go to the Government, Turoa again asked for the names to be removed:

I am the chief of their land, it is under my control, it has not passed through the Native Land Court. They had no right to sign it without my permission.

4.4.4 Negotiations suspended

In the face of such determined opposition from 'professedly friendly chiefs', Buller wrote to the Under-Secretary of the Native Affairs Department in August 1877 suggesting that surveys should not be pushed ahead.⁵⁰ Not only had the survey of the Rangipo district been interrupted at the instigation of Renata Kawepo and Kemp, but Maori claimants could not agree to the nomination of grantees for the 'Murimotu proper' block, and after several days the last sitting of the Native Land Court at Wanganui was adjourned indefinitely. Buller continued:

50. Buller to Under-Secretary of Native Affairs, 23 August 1877, MA 13/50, pt A

The pressure of land speculators from other parts . . . [has] increased the difficulties of the position and strengthened the minds of the Natives [and] their determination not to enter into any lease to which the Government is a party . . . In the case of Ruanui the native owners who were admitted by the Court at the last Wanganui sitting, have executed a fresh lease to . . . Russell and Co, ignoring the previous agreement . . . to which the Government was a party.

Buller's conclusion was that, owing to the present state of feeling among the 'Murimotu and Wanganui tribes' and in the absence of any survey of hapu boundaries:

it is useless to attempt further negotiations for the present. Its effect would be only to irritate the natives and make them more determined than ever to resist the overtures of the Government and to suspect the existence of some ulterior design on their lands.

He went on to recommend the suspension of all negotiations, until Maori wished to resume them:

such a course is far more likely to succeed in the end than an apparent determination to force the natives into some arrangement now.

Woon concurred with Buller's assessment. He believed that the public peace was always:

more or less liable to be disturbed over these land quarrels; and now, as there are so many surveys going on, it would be well in all disputed cases for the Government Surveyor to exercise a wise discretion, and never push the survey in the face of excitement and probable strife, but rather postpone further operations till such excitement had subsided.⁵¹

4.4.5 Te Paku-o-te-Rangi hui

51. Woon to Under-Secretary of Native Affairs, 28 May 1878, AJHR, 1878, G-1, pp 15–16

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In 1877, a ‘quasi-parliament house’ was erected at Putiki as a place where ‘the Wanganui tribes might meet periodically for the discussion of all matters affecting [them]’. Called Te Paku-o-te-rangi, the house was opened on 13 August and this was followed by a week of discussion where land issues were the major topic of conversation.⁵² Here, the majority of those present (Nga Poutama, Ngatiapa, Ngati Ruaka, Ngati Hine, and members of other river and coastal tribes) expressed themselves as opposing any further surveys, leases, sales, or mortgages of their tribal estate and, in particular, certain blocks of defined land in the interior and along the river. Disapproval was also expressed over the Native Land Court, Crown grants, road boards, rates and taxes, and roads, railways, and telegraph wires. Such matters were to be sanctioned by the affected tribe before their introduction. In no case were these to be permitted on the approval of an individual or a minority of the tribe. A plan was proposed where all land boundaries were to be surveyed by Maori, investigated by a Maori committee, and recorded, according to Maori custom and usage, in a tribal and family register, with a view to the settlement of all boundary disputes and to a further subdivision of the land among hapu or individual. While there were those who disapproved of the resolutions, Woon, who attended the discussions, concluded that:

many chiefs are getting alarmed at the inroads being made upon their Lands, and are trying to adopt measures to secure a large portion being kept and reserved for their posterity . . . most agree[d] that undue advantage had been taken of their ignorance.

4.4.6 Leasing

52. Woon to Native Minister, 25 August 1877, MA Wanganui, 2/1

According to Woon, however, ‘a short time . . . proved that such a determination could not be carried out’.⁵³ Despite the opposition of many Maori to leasing or selling, those who were in favour were able to force the issue by applying to the Native Land Court for an investigation of title. In 1877, land in the Murimotu area began to go through the court. Te Ruanui (11,000 acres) was awarded to Ngati Rangituhia in August 1877. The memorial of ownership was granted to 35 Maori, who then executed a lease for 21 years in favour of James Russell of Auckland. Unfortunately, the Native Land Purchase Act 1877 was passed and a proclamation issued that prohibited any person other than the Crown from dealing with this and several other blocks of land. In January 1880, Russell wrote to the Native Minister asking that his lease be allowed. He added that he had first leased the land in 1874 and stocked it with cattle, and had had undisturbed possession of the land from then until 1877, with Maori recognising his right by accepting rent and living upon the reserves laid out for them.⁵⁴ The Minister’s reponse to this matter is unknown.

In May 1881, the Rangipo block went through the Native Land Court and was subdivided between Ngati Tama (Turoa’s people), Ngati Rangituhia (Kemp’s people), and Ngati Waewae (Te Heuheu’s people). The Rangipo Waiu block of 42,000 acres was awarded to Ngati Tama and Ngati Rangituhia, each receiving 21,000 acres. Of the 42,000 acres, 38,000 were leased by the Government for 21 years from 31 May 1881, at the rate of £13 per 1000 acres per annum. This comprised the full 21,000 acres awarded to Ngati Rangituhia, and 17,000 acres of the land awarded to Ngati Tama. The remaining 4000 acres were vested in eight individuals. Of the 26,000-acre Rangipo Waiu 1 block, some 24,126 acres were

53. Woon to Under-Secretary of Native Affairs, 28 May 1878, AJHR, 1878, G-1, p 13

54. Russell to Native Minister, January 1880, MA 13/50, pt A

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leased for £12 per 1000 acres per annum, the remaining 1874 acres staying in the hands of four individuals. A further 27,143 acres were leased at £13 per 1000 acres per annum from the 30,000-acre Rangipo Waiu 2 block. Again Ngati Rangituhia had agreed to lease their full half-share, while Ngati Tama leased 12,143 acres, the remaining 2857 acres being held by eight individuals who did not join in the lease. Presumably, these were the same eight individuals who had refused to lease their share of the Rangipo Waiu block.

4.4.7 Final settlement

Final settlement of the Murimotu block was not reached until July 1884, when five subdivisions were made. The court awarded the land to four groups: Ngati Rangituhia, Rawhitiao, Ngati Rangihaereroa, and Ngati Tamarua. Leases were then made for four of the five subdivisions (each of which the above four groups had respectively been awarded) for a term of 21 years from 20 August 1882, at the rate of £13 per 1000 acres per annum. Of Murimotu 2, the full 8822 acres were leased, of Murimotu 3, 8000 out of 13,000 acres were leased (only 26 out of the 41 owners signed the lease), of Murimotu 4, 10,214 out of 11,000 acres were leased (here only one owner did not sign the lease), and finally, of Murimotu 5, 12,843 acres were leased from the total of 13,081 acres. Here again, only one of the owners did not sign. Murimotu 1 does not appear to have been leased.⁵⁵

Following the above Native Land Court decisions, the Rangipo–Murimotu Agreement Validation Act 1882 was passed. This validated not only the 1874 agreement but also the agreements of March 1879 (which extended the term of the lease to 21 years ‘in consequence of the delay and expense’ caused to the private parties concerned) and December 1879 (which ratified the previous agreements). There was much discussion about the matter when the Bill was debated in the

55. ‘Murimotu and Rangipo Lands Leased to Her Majesty the Queen’, MA 13/50, pt A

House. The Native Minister, Bryce, saw in no uncertain terms the ‘whole thing as a very foolish proceeding’, containing many difficulties, but urged that the Bill be passed to ‘complete’ the agreement.⁵⁶ Others also had criticisms. Some questioned why the Bill extended the term of the lease for a further seven years, and others were discontented at the expense the Government had gone to to acquire the lease. Moreover, it became apparent that the Government had conveniently overlooked the provision in the Native Land Act 1873 that voided all private acquisitions of Maori land over which native title had not been extinguished. As Ward rightly pointed out:

the government involved in the agreement of 1874, and the government and many of the legislature involved on the Bill of 1882, overlooked this – as usual – sympathising instead with the purchasers who had paid money to the Maori rightholders.⁵⁷

56. NZPD, 1882, vol 43, p 885

57. Ward, p 37

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Three of the Maori members of the House expressed concern about the interests of those Maori who had not signed the lease, and whether their shares were to be separated.⁵⁸ Henare Tomoana also wondered whether those Maori who had entered into the initial agreement but had since changed their minds were bound to it. It appears that this was to be the case. In December 1882, it was provisionally decided by Bryce that Maori who had been present at the meeting for settlement of the Murimotu and Rangipo blocks or who had taken money on account should be looked upon as persons who had entered into a contract with the Crown. Those Maori who had not ‘compromised themselves’ in the above ways could apply to have their interests subdivided.⁵⁹ Despite all the above misgivings, the Bill was passed.

58. NZPD, 1882, vol 43, pp 888–889

59. Memorandum of interview with Native Minister, 7 December 1882, MA 13/50, pt A

4.5 AN END TO THE CONFLICT

Following the 1860s, when land acquisition and Pakeha settlement had been largely negligible and conflict was rife, the 1870s dawned with a new mood of peace and conciliation evident among Maori and between Maori and Pakeha. Strenuous attempts were made by Maori to formulate a cohesive policy along the river, these attempts being seen by Pakeha as positive indicators of Maori willingness to integrate with Pakeha society. The determination of tribal boundaries and the ‘setting aside’ of part of the tribal estate as a reserve ‘in perpetuity’ were the dominant issues. Overall, Maori were exhibiting a strong desire to control the alienation and administration of their own land, signifying a clear awareness on their part of the effects of alienation on their society.

Within a few years, however, this was to change. Affected by Vogel’s policies and an increased, determined drive by both the Government and private individuals to acquire vast quantities of land, and marked by escalating land purchase activity, Maori were faced with a dilemma. On the one side, there was the increasing value of, and demand for, their land. On the other, though, was the increasing anxiety about the security and administration of their land. With the effects of the Native Land Court system, well documented elsewhere, manifesting themselves, Whanganui Maori demonstrated to Pakeha that the idea of a ‘land league’ was not dead, nor were efforts at self-determination. Their response to the

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ideas of the Repudiation movement and the operation of a runanga to settle land and other disputes illustrated this.

Events in the Murimotu–Rangipo area were to highlight the resolve of both parties. For Maori, their determination to resist purchase and instead enter into leases on their own terms was tenacious. For the Government, the agenda was different and rested on its persistence in acquiring land, be it by purchase or lease, and excluding private purchasers. Despite Maori opposition to selling, and in some cases to leasing, any engagement in the land court process was a way of circumventing this opposition and almost inevitably led to alienation. Common practices such as the paying of advances, and the delayed surveying of land, were to create a legacy of frustration and grievance among Whanganui iwi.

In the late 1870s, however, despite Buller’s statement that land purchase negotiations should be suspended until Maori were more willing to engage in them, and despite continued concern about the effects of alienation on Maori, land fell to the land court system, leases were obtained and validated, and purchases were made. The experiences of the 1870s, however, had strengthened Maori resolve over the control of their land, and the 1880s were to witness determined and strenuous efforts to regain this authority.

CHAPTER 5

THE LATE NINETEENTH CENTURY

5.1 KEMP'S TRUST

5.1.1 The purpose of the trust

The early 1880s witnessed another attempt by Whanganui Maori to regain control of their land. Kemp was to be the central figure behind this. In February 1880, he took up arms 'in defence' of his interests in the Murimotu area in response to Government attempts to survey the area comprehensively. As a result, he was relieved of his duties as an assessor in the Resident Magistrate's Court and as a land purchase officer.¹ Kemp's reply was to set up a 'trust'.

The purpose of the trust was explained to Bryce, as the Native Minister, in a letter from Sievwright and Stout, who acted as the trust's solicitors.² The trust encompassed a large area of Maori land and 'settled country' between Wanganui and

1. Alan Ward, 'Whanganui ki Maniapoto: Preliminary Report to the Waitangi Tribunal', report commissioned by the Waitangi Tribunal for Wai 148 and related claims, March 1992, p 29

Mount Ruapehu, embracing an estimated 1½ million acres. The trust's duties were to pass the land through the Native Land Court and obtain a marketable title for it, set aside inalienable reserves for the Maori owners, make and contribute to the making of roads and the opening up of the country, and, at the same time, take all desirable means to effect the settlement of the land by Pakeha settlers, but under the trust's terms. Some considerable attention was paid to the matter of advances. In early September 1880, Hoani Paiaka wrote to Bryce to advise him that:

The people and the land have suffered severely from the actions of the Officers of the Government in 'advancing' money wrongly upon Maori lands and the practice will now be completely stamped out.³

Kemp's attitude towards advances was similarly clear:

I recognise the Queen's laws relating to Crown Grants, money advances, and other matters, but scattering money upon lands that have not been brought within the operation of the law, and making advances to people who have not been decided by the law to be the owners of the land, these are not the Queen's laws, but are the laws of the present Government and of your heart who enables such laws in order that you might obtain possession of my land for yourself.⁴

2. Sievwright and Stout to Bryce, 28 September 1880, MA 13/14
3. Hoani Paiaka to Bryce, 2 September 1880, MA 13/14
4. Kemp to Bryce, 10 January 1880, MA 13/14

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In late September 1880, Sievwright and Stout asked the Government for copies of any agreement or document concerning the purchase or acquisition of land within the district, along with a detailed statement of advances or payments made to Maori, specifying the dates of payment, the blocks concerned, to whom the payments were made, and the amounts.⁵

Kemp was joined by a council of some 180 Whanganui leaders. Signatories to the trust included a number of Maori who were in the 'pay of the Government', such as Te Mamaku, Paora Poutini, Te Mawae, and Haimona Hiroti.⁶ This was a matter of some concern to the Native Department, which asked that these persons be called upon to give an explanation of their conduct before the department dealt with the matter. Woon expressed his anxiety over this proceeding, arguing that many of these people:

have rendered important service in the past . . . In my opinion, if these Natives are summarily dismissed, they will be embittered against the Government; and commit themselves to acts of overt rebellion, and strife.⁷

Woon, however, had some strong opinions about Kemp's activities. In respect to Kemp 'taking up arms to enforce . . . [his] supposed rights', Woon considered that:

The example shown by him and his tribe . . . will have a very bad effect upon the Natives generally, particularly from such an example being shown them by so distinguished and loyal a chief as Major Kemp had proved himself to be. His disobedience of orders and unruly conduct were quite inexcusable.⁸

By October 1880, feelings were running so high that Woon considered the situation extremely delicate:

5. Sievwright and Stout to Native Department, 30 September 1880, MA 13/14

6. Woon to Under-Secretary of Native Affairs, 20 October 1880, MA 13/14

7. Woon to Under-Secretary of Native Affairs, 21 October 1880, MA 13/14

8. Woon to Under-Secretary of Native Affairs, 22 May 1880, AJHR, 1880, G-4, p 14

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I feel now, considering the amount of dissatisfaction manifested, bordering upon disaffection and rebellion, that the time has come to consider the advisability of my continuing my visits amongst the up river Natives at this time, seeing I am placed in a false position . . . I am very much afraid that this business of Kemp's will . . . lead to trouble, and perhaps strife.⁹

Kemp's trust was:

in effect, an attempt to form a Rohe along the lines of the Kingitanga, to control the actions of land-selling chiefs, and engage, on more favourable terms, with the processes of settlement.¹⁰

5.1.2 Defining the boundaries

9. Woon to Under-Secretary of Native Affairs, 20 October 1880, MA 13/14

10. Ward, p 29

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Like the Kingitanga, the area the trust encompassed was delineated. At a meeting at Koroniti on 16 October 1880, it was decided that the first boundary post would be erected at Kauarapawa, on the Whanganui River.¹¹ On 3 November 1880, a large carved post some 30 feet high was erected at the mouth of the Kauarapawa Stream to mark the boundary of the territory handed to Kemp in trust by Whanganui Maori.

Kemp made a short speech to the effect that the post was set up on land descended from their ancestors as a witness to both Maori and Europeans that no evil would happen to either race from this work of his and that from this tree (the post), founded on love and faith, would proceed blossom and fruit for the support of the poor and the orphans.¹²

Kemp concluded by saying that the Native Minister had declined to meet him and discuss matters, he believed out of shame, and that he would go on with his work and mark off his boundaries, and he would not listen to advice in the future, keeping the land regardless of the Minister's anger. It was also reported that Kemp announced that the river past Raorikia would be closed to all Pakeha and that a pass signed by him would be required to proceed any further upstream.¹³

Following the conclusion of Kemp's speech, two flags were hoisted, one of which had a drawing in the centre of Kemp standing on the summit of Mount Tongariro, with his right hand outstretched, pointing a taiaha towards a half moon and a star. The Union Jack was in the top corner. A further three poles were erected,

11. Kemp to Woon, 18 October 1880, MA 13/14

12. Woon to Under-Secretary of Native Affairs, 6 November 1880, MA 13/14

13. R H Voelkerling and K L Stewart, *From Sand to Papa: A History of the Wanganui County*, Wanganui, 1986, p 106

one each at Te Horoamoehau on the Matemateonga, Te Reureu near Tokorangi (on the Rangitikei River), and Kaitangiwhenua near Waiouru.¹⁴

5.2 A NEW RESIDENT MAGISTRATE

A shift in the reporting of the activities of Kemp and the trust was to come with the retirement of Woon as the resident magistrate and the appointment of James Booth.

In early January 1881, the *Wanganui Herald* commented that this appointment was:

not likely to give satisfaction to any section of the Natives . . . It may probably be that it is more Mr Booth's misfortune than his fault that he does not stand well with the Natives. It is his misfortune that he has been engaged in land purchase transactions, and has not created amongst them in his mode of dealing a sentiment of respect for himself . . . The appointment of Mr Booth practically means that the functions so long performed by Mr Woon shall cease, and the office become honorary and useless.¹⁵

Kemp's actions in opposing land sales and obstructing surveys in the Murimotu area had obviously greatly annoyed Booth, who was at the time acting as a land purchase officer. In early January, soon after assuming his new post, Booth wrote to the Under-Secretary of Native Affairs to say that:

14. G Smart and A Bates, *The Wanganui Story*, Wanganui, 1972, p 222

15. Extract from the *Wanganui Herald*, 4 January 1881, MA 13/14

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Kemp has for years past been like a spoilt child, and has had such an overwhelming conceit of himself that he evidently thought no Government could stand if he opposed himself to it . . . but his words will after a time cease to have any effect even on the Natives, if the wise policy adopted by the Government of leaving him . . . alone is continued. Already the Natives are beginning to doubt his ability to carry out his promises of repudiation of all sales to Government of lands which have not been Crown Granted.¹⁶

Kemp's response was even more vehement:

We will not acknowledge this reptile James Booth as we have already had enough of his misdoings. Now we find him forced into this district again, sent . . . to disturb us once more. This is to tell you positively that we will not permit him to put his foot within any part of the Whanganui River District. If he does come we will expel him roughly therefrom, let him rather be appointed to some other tribe. The only officer we approve of is Mr Richard Woon, who was appointed our Magistrate at the request of the whole tribe. He having resigned his appointment, a successor will not be readily found at the present time. We want none of your Fish-dealers, whalers, or Butchers, but rather the sons of gentlemen who have been brought up by their parents in the law.¹⁷

A month later, Kemp renewed his attack:

I . . . will refuse to listen to the common fowl which crows in the evening and tries to imitate my bird the pitoitoi which heralds the dawn of day. Do you mean to say we are to accept these [Government] officers, these snakes in the road to bite the heels of the horse and thus cause the rider to be thrown? I suppose you would prefer to hide the evil deeds of your officers which I see with my own eyes, and because I tell you of these faults you accuse me of setting the law at defiance! . . . You must not think I will cease in my opposition to Booth. No never, and what is more, he shall not come within my boundaries.¹⁸

Such open animosity between these two principal figures was to be a continuing feature of their relationship. Kemp's trust, however, was to be short-lived:

Without a major change in the land laws, and while the purchase of individual interests in land went on, it was impossible for organisations attempting to straddle tribal lines to retain their control for long. The same processes that eventually eroded Kemp's Trust were, in the very same period, eroding the Kingitanga's influence south of the Puniu River.¹⁹

16. Booth to Under-Secretary of Native Affairs, 5 January 1881, MA 13/14

17. Kemp and Paori Kuramate to Rolleston, 2 February 1881, MA 13/14

18. Kemp to Under-Secretary of Native Affairs, 27 February 1881, MA 13/14

19. Ward, p 29

5.3 GOVERNMENT PRESSURE

5.3.1 Petition to the Government

To the north of the Whanganui district, in the King Country, the sale of land had also been strongly resisted by Maori. At the same time, the Government was making repeated attempts to persuade the Maori King, Tawhiao, and his followers to allow Pakeha settlement in the area. These attempts were prompted by the Government's desire to obtain land for the construction of the North Island main trunk railway through the centre of the island.

The problem for Maori, then, was how to embrace the railway and the other trappings of Pakeha settlement without losing the control and ownership of their lands. In 1883, the Government was petitioned by the four iwi affected: Ngati Maniapoto, Ngati Raukawa, Ngati Tuwharetoa, and Whanganui.²⁰ Here, these iwi expressed their concern that the tendency of legislation so far enacted was:

to deprive us of the privileges secured to us by the second and third articles of the Treaty of Waitangi, which confirmed to us the exclusive and undisturbed possession of our lands.

The petition went on to decry the operation of the Native Land Court and the practices of land speculators, who acted 'so that they might seize the land, the result being that we secure the shadow and the speculators the substance'. These iwi faced a serious dilemma:

What possible benefit would we derive from the roads, railways, and Land Courts if they became the means of depriving us of our lands? We can live as we are situated at present, without roads, railways, or Courts, but we could not live without our lands. We are not oblivious of the advantages to be derived from roads, railways, and other

20. 'Petition of the Maniapoto, Raukawa, Tuwharetoa, and Whanganui Tribes', AJHR, 1883, J-1

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desirable works of the Europeans. We are fully alive to these advantages, but our lands are preferable to them all.

As the Waitangi Tribunal has commented, the petition was not intended to keep land ‘locked up’ from Pakeha or to prevent leasing or the building of roads, but was ‘a plea for a more equitable system of land administration in which Maori had more control of their own affairs’.²¹ The petition went on to request that Maori be freed from the ‘entanglements incidental’ to the determination of title by the Native Land Court and the other ‘objectional results’ of attending the court, that legislation be passed to make their land inalienable by sale and thus secure it forever, and to allow them to fix the boundaries of the four tribes and the hapu within and the proportionate claim of each individual.

21. Waitangi Tribunal, *Pouakani Report 1993*, Wellington, Brooker’s Ltd, 1993, p 96

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In December 1883, it was agreed that a survey should be made of the external boundaries of what had become known as the ‘Rohe Potae’ and that a Crown grant should be issued for it.²² It was also agreed that surveys for internal subdivisions would not be permitted, and that ‘neither the Government nor any other government [could] make any other arrangement in the future’.²³ By January 1884, dissension over the agreement, which was known as the ‘Aotea agreement’, had arisen among tribal leaders, but this reflected suspicion of the motivations of leaders from other tribes. In April 1884, the Whanganui tribes, or rather Toakohura Tawhirimatea and 101 others, had written to Bryce to inform him:

that we repudiate the tribal boundary made by Wahanui and Manga [Rewi Maniapoto] which runs through our tribal lands. We have a large area of land within that boundary, and as we were not informed that Wahanui and Manga intended to survey the exterior boundary, we the hapus of Whanganui interested in lands within those boundaries withdraw our lands from the survey . . . so that they may remain under the same authority and management as other Whanganui lands.²⁴

In 1883 and 1884, the Government ‘followed up’ the 1883 petition with legislation designed to meet some of the wishes of the iwi involved. The Native Committees Act 1883 provided for the election of committees in ‘Native Districts’, which would advise the Native Land Court and arbitrate in disputes of up to £20 in value.²⁵ Also passed in 1883 was the Native Land Laws Amendment Act which made land dealings prior to the award of title illegal, void, and punishable by a fine of up to £500. Lawyers were also banned from the Native Land Court for a short time. Much alarm had been expressed by Maori at lawyers’ costs in the court. In 1883, Kemp petitioned the Government over this matter, declaring that several

22. For an outline of the negotiations on this matter, see the *Pouakani Report 1993*, pp 98–105. There was also a debate over the number of Native Land Court sittings and Crown grants there were to be.

23. Chief surveyor to Wahanui, Taonui, and Rewi Maniapoto, 19 December 1883, AJHR, 1885, G-9, p 2

24. MA 13/93, cited in the *Pouakani Report 1993*, p 106

25. The Native Committees Act 1883 was repealed by the Native Land Court Act 1886.

blocks of land had been swallowed by these expenses. An example was provided of a 12,000-acre block of in the Waikato that was sold for £3700, leaving the Maori concerned with a debt of £100.²⁶

5.3.2 Native Land Alienation Restriction Act 1884

In order to allay Maori concerns about the activities of land speculators and other private purchasers, the Native Land Alienation Restriction Act 1884 was passed ‘to prevent Dealings in Native Land by Private Persons within a defined District of the North Island’. This, however, was not the main reason for the Act. The Government needed a monopoly on the purchase and resale of land in order to pay for its railway borrowings. Section 3 stated that ‘no person shall . . . negotiate for, purchase or acquire, or contract or agree to purchase or acquire’ any land within the territory described in the schedule. This territory was a vast area of land, which basically included the Rohe Potae, the Mokau–Mohakatino block, down into the Whanganui district, with the Rangitikei River as the eastern boundary, as far south as the Otairi block, across to the Whanganui River, up the river to the Whangamomona River,

26. ‘Petition of Meiha Keepa Rangihwinui and 278 Others (No 2)’, AJHR, 1883, I-2, p 11

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and then west to the Taranaki confiscation boundary.²⁷ In all, the area described in the schedule encompassed over 4½ million acres, 3½ million of which were held by Maori and for which title had not been investigated by the Native Land Court.²⁸

This Act was to be a contentious one. By enacting it, the Crown had effectively reasserted its right of pre-emption as in article 2 of the Treaty of Waitangi. This issue was hotly debated in the House at the time of the Bill's introduction. Hobbs argued that the Government should not be the sole purchaser of Maori land:

I think that the Natives have just as much right to sell their land to the highest bidder as any member of this House has, and I hope the House is not prepared to coerce the Natives in that respect. I make these remarks because there is an uncomfortable feeling that the Government take an opportunity of proclaiming blocks of land and making small advances upon them, with the object of securing the land at a very small price – at any rate, for much less than what private individuals would give the Natives.²⁹

Sir George Grey, on the other hand, expressed the view that Maori 'owed' Pakeha the right of pre-emption:

When we entered New Zealand . . . we undertook that every Native should be preserved in the possession of the property he held at that time. That was giving the Natives a very great advantage indeed. It was giving them, in point of fact, security of tenure. Then, we asked, in part return for that, that they should grant the Crown the right of pre-emption. We promised, further, to give great value to their land – a much greater value than they could get for their lands in their former state – by introducing a large European population into the colony, and by constructing public works of various kinds.³⁰

This rationale for pre-emption was to be repeated by politicians time and time again.

27. A map showing the land included in the schedule to the Act is held at the cartographic section of the Alexander Turnbull Library: 832.Hgbbd/1884/Acc 1914. Contrary to the statement on page 112 of the *Pouakani Report 1993*, map 7.1 on page 97 of the report does not accurately show the area described in the schedule.

28. Ballance, 1 November 1884, NZPD, 1884, vol 50, p 316

29. *Ibid*, p 324

30. *Ibid*, p 479

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The Maori members of Parliament were understandably outspoken on this issue and offered a somewhat different opinion on the matter. Wi Pere, the member for Eastern Maori, was strongly opposed to pre-emption and insisted that the Government should not force Maori to sell their land for only sixpence per acre, because, ‘if the Government obtain possession of the land, they will sell it at £1, £2, or £3 an acre – for more, probably’.³¹ George McLean, the member for Otago, felt that, although the price was low, the land needed much improvement and the men who did this paid for it very dearly.³² With regard to support for the Act among the Whanganui iwi, Ballance assured the House that he had had repeated communications with the principal chiefs of the:

lower part of the Wanganui country, and I believe that a large portion of them will be anxious to place their lands in the hands of the Government, for the purpose of administration and settlement.³³

Ballance neglected to comment on whether the measure was supported by other Whanganui chiefs.

This reimposition of pre-emption was to come under close scrutiny by the 1891 Commission on Native Land Laws:

Parliament can legislate regarding the future administration of the Maori lands and the resumption by the Crown of the pre-emptive right. Parliament has both claimed and exercised extensive powers . . . There are no limits to its jurisdiction.³⁴

James Carroll, a Maori member of the commission, disagreed with this opinion. He felt that the resumption of pre-emption was an ‘unwise and impolitic’ step, the legality of which was ‘open to grave doubt’:

31. *Ibid*, p 480

32. *Ibid*, p 434

33. *Ibid*, p 313

34. ‘Report of the Commission Appointed to Inquire into the Subject of the Native Land Laws’, AJHR, 1891, sess II, G-1 (cited in the *Pouakani Report 1993*, p 236)

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I entirely fail to understand how, as set forth in the preamble to the Act of 1862 [The Native Lands Act 1862], the Government of New Zealand, having renounced the right of pre-emption over Native lands, can again acquire that prerogative without the assent of the Natives. Upon equitable grounds alone the Parliament should not attempt to regain the prerogative it abandoned about thirty years ago. Such a proceeding on the part of the Legislature would in my opinion intensify the mistrust the Native population too long have had in Colonial Governments.³⁵

Carroll went on to comment on the effect pre-emption had upon land prices.

Evidence adduced before the commission proved conclusively that:

where the Government interposed with its pre-emptive right . . . the Natives could not obtain a fair price for their land. The Government offered 3s an acre; at the same time private purchasers were in constant communication with the owners, and willing to pay them £1 an acre . . . The inevitable result arising from such a condition of things is that, if the Natives cannot sell to the purchaser prepared to give them a larger sum than the Government, they will not sell at all; and it will be observed that not even the Treaty of Waitangi itself, or any law passed by Parliament, assumed the power of compelling the Natives to alienate their land.³⁶

5.4 THE MAIN TRUNK RAILWAY

35. Ibid (cited in the *Pouakani Report 1993*, pp 236–237)

36. Ibid (cited in the *Pouakani Report 1993*, pp 237–238)

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The early 1880s were also marked by concerted attempts by the Government to forge ahead with the main trunk railway. The North Island Main Trunk Railway Loan Act 1882 had provided for the raising of a £1 million loan to be spent on railway construction, including surveys and land acquisition. In June 1883, John Rochfort set out on a railway reconnaissance survey through the centre of the North Island between Marton and Te Awamutu. He was to encounter much opposition. At Karioi, he was stopped by Pita te Rahui and others, who were occupying part of the Rangataua block under Kemp's instructions, and informed that he would be shot if he continued. Rochfort detoured to Upokongaro to consult Kemp, who said the stopping was done without his authority and that he would support Rochfort 'with five hundred men, if necessary, for I consider a railway will be for the good of my people'.³⁷ When Rochfort returned to Rangataua, he was allowed to pass after a 'long korero', in which he explained that his work had nothing to do with the land question, only the railway.

Rochfort was to encounter further difficulties at Ruakaka, some 12 miles below Hahungatahi on the Manganui-a-te-Ao River. The people had not received any advance warning of Rochfort's arrival and he was accordingly marched back to Papatapu, two miles above the confluence of the Manganui-a-te-Ao and the Whanganui Rivers. Here there was much discussion about the proposed railway:

Rangihuatau spoke in a vacillating way, but said he was a Government man; Taumata was decidedly averse to the railway, and also to any Europeans coming on their land, and said if I had been taken on his land he should have cut up all my belongings in small pieces, and made slaves of myself and party; Te Kuru spoke against any violence, but was decidedly in favour of keeping Europeans away. All spoke, but Winiata and Te Aurere (who were at heart in favour of the railway) were afraid to speak out: and eventually letters were written . . . saying if I returned a

37. 'Appendix to Mr John Rochfort's Report', AJHR, 1884, D-5, p 3

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second time I should be turned back, . . . and if I returned a third time I should be killed.

Contrary to Rochfort's view, the issue of the railway seemed to be closely allied to the land question in the minds of these Maori.

Rochfort then paddled down the Whanganui River, calling at Pipiriki, Hiruharama, Koriniti, Parikino, and Kaiwhaiki on the way, where he found most of the lower river Maori in favour of the railway. Following a trip to Wellington to seek the advice of the Native Minister, Rochfort returned to the area and proceeded with his reconnaissance, still encountering some resistance. At Papatupu, he described the welcome as 'anything but a friendly' one, and though he arrived at Taumarunui without further obstruction, he was received 'sullenly, without a word of welcome'. It was here that he was told by a group of men 'of the aukatis' that he would not be permitted to travel through the Rohe Potae, this being ordered by Wahanui. Instead, he was forced to go to Tokaanu and travel around the west side of Lake Taupo to Kihikihi.

Probably largely because of Kemp's efforts, Rochfort was able to complete his journey without further obstruction. Kemp played an important role in convincing Maori of the benefits of the railway. In April 1884, he was reported as having:

made himself very popular with the Europeans generally . . . He received quite an ovation at a public meeting held here lately, when he made an excellent speech on the subject of throwing open the Upper Whanganui, Murimotu, and Tuhua country for railway purposes and gold-seeking, offering, of need be, to go with the prospectors, and aid them in every way his extensive influence could be brought to bear. The hearty and strong support he is giving Mr Rochfort and party in surveying the much-talked-of, and by many the much-hoped-for, central railway line, may be regarded as proof of the genuineness of his friendly professions.³⁸

38. Ward to Under-Secretary, 14 April 1884, AJHR, 1884, G-1, p 20

Kemp appears to have suffered another change of heart.

Legislation continued to be passed to facilitate the construction of the railway. The route the railway was to take was defined by the Railway Authorisation Act 1884 as running ‘from a point at or near Marton to Te Awamutu via Murimotu, Taumarunui and the Ongarue River Valley’. But despite the fact that the Government had enacted legislation to enable itself to purchase land along the proposed route without competition from private purchasers, it appears that this was not its intention. In early February 1885, representatives of Ngati Maniapoto, Ngati Raukawa, and Whanganui, but not Ngati Tuwharetoa, agreed on their terms for the railway: it was to be one chain wide, fenced on both sides, and sold rather than given, although Wahanui of Ngati Maniapoto suggested that payment would not actually be sought. Just over a year later, in April 1885, the railway route was gazetted under section 8 of the Railways Authorisation Act 1884 and sections 129 and 130 of the Public Works Act 1882. This was, as Ward points out, ‘in effect, a compulsory taking of the land for the route’.³⁹ On 15 April, the ceremony of turning the first sod was carried out by Premier Robert Stout on the south bank of the Puniu River.

5.5 ‘A MATTER OF HISTORY’

5.5.1 The Ranana hui

39. Ward, p 58. The Government was willing to pay for the chain width. The use of the Public Works Act 1882 was essentially to obtain title by the most expedient legal means available.

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At the beginning of January 1885, Ballance met with Whanganui iwi at Ranana. This was seen by the iwi as a significant event, being the first occasion on which a Native Minister had come up the river and their first opportunity to express their opinions concerning the administration and settlement of their land directly to the Minister. Robert Ward, the resident magistrate for Whanganui in the mid-1880s, was later to describe the hui as ‘a matter of history’.⁴⁰ Kemp spoke first:

40. Ward to Under-Secretary of Native Affairs, 27 April 1885, AJHR, 1885, G-2, p 19. James Booth left Wanganui to take up a position as a magistrate at Gisborne in 1883.

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I have always taught the people of Whanganui to aim at the ends sought by rich Europeans, but now I have changed my opinions, and I think it is best that the people should only act in accordance with the law. I think that all lands should be subdivided, and the title of each person ascertained; not that I wish to prevent sales or leases of land, but I think that if it is intended to sell the land it should be cut into small blocks and sold to private individuals, because it is population that will bring prosperity to this Island.⁴¹

Kemp went on to state that Maori should negotiate only with the Government, not it appears, because he supported the idea of pre-emption, but rather because it was a way of avoiding the abuses of private purchasers:

Previous Governments have assisted the speculators to obtain large blocks of land, ten or even twenty thousand acres each. As a result of this, the European who acquires the land goes away, and takes the rent to some other place . . . he derives benefit from a great distance. I think now that if this practice is continued we shall never receive any benefit from it.

Next to speak was Paori Kuramate, who outlined the subjects the Whanganui iwi wished to discuss. Most of these subjects centred around the role of native committees in administering Maori land and their control over surveys, leases, sales, and the acquisition of land for the railway. Ballance was to address these matters comprehensively. He agreed with Paori Kuramate that the native committee of Whanganui should be confined to the Whanganui district and he promised to revise the boundaries, because nothing was ‘more absurd than the fact that some of the members of this Committee are living at Otaki’.⁴² Then he moved on to the power of native committees:

this is a very large question, and is a question that will have to be very carefully considered by the Government. I think the Committees may do a great deal of good in the ascertainment of title to land . . . As to the relations between the Committee and the Land Court, I should like to make these as clear as possible. It may sometimes happen that the Committee, in ascertaining the title to land, may themselves – the members of

41. ‘Notes of a Meeting between the Hon Mr Ballance and the Wanganui Natives at Ranana on the 7th January 1885’, AJHR, 1885, G-1, p 1

42. Ibid, p 2

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the Committee – be interested in having the title ascertained in a given direction . . . You ought to recognize that the Land Court still remains to decide ultimately the question of title amongst you.⁴³

With regard to surveys of land and leases and sales, Ballance, despite some of his comments, did not agree that the committees should have a large amount of control in these matters:

the greatest of all questions is the question of money for the surveys. Will the Committee find the money? No; I do not think the Committee in the first instance, can find the money . . . and I think it will be necessary . . . that the Government should come to their assistance, having some security that when this is done the cost of the survey shall be repaid from the proceeds of the land when it is disposed of.

Ballance did not offer an explanation as to why this could not be the case with the committee. Obviously, he was not willing to concede control of surveys to the committee. Similarly, he declared that he was not sure that the committee would be the best body to deal with the leases and sales of land.

5.5.2 The Native Land Administration Bill

Ballance then went on to describe a new piece of legislation, the Native Land Administration Bill, which he was hoping to have passed at the next session of Parliament and which would address the above concerns. The principal features of the Bill were that a block committee would be elected by the owners of a block, and that all dealings concerning the block would be managed by that committee. These dealings included leases and sales, and surveys and roads. Ballance told the hui that he thought it was better for Maori to lease rather than sell their land:

43. Ibid, p 3

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In the case of leasing . . . land it remains . . . for ever, . . . I have noticed with great regret that when land is sold the money is soon parted with, and the money and the land are gone too. How much is any one of you the better for any land you have sold at the present moment? But where you have leased your land your rents are coming in year by year, and remain with you for ever; but the Government will give to you the right to say whether you will sell or lease your lands, and assist you in carrying out whatever decision you may arrive at . . . We think that this is the best thing to do – what I have suggested: it enables the owners of the land to exercise the principal vote as to how their own land shall be disposed of, at the same time you get the assistance of the Government in enabling you to dispose of your land.⁴⁴

The Bill, though opposed by politicians who wanted direct purchase, was passed.

Ward describes it as ‘a carefully considered effort to stop the chicanery in Maori land purchase’.⁴⁵

Ballance also spoke of the railway and the advantages it would supposedly bring. He told those present that ‘Land which is worth now not more than five shillings an acre will be worth five pounds an acre when the railway runs through the land’.⁴⁶ This was a misleading statement. It was not until the 1920s that Maori vendors were to receive this price for their land.⁴⁷

5.6 LAND PURCHASES INCREASE

5.6.1 Booth’s purchases

44. Ibid, p 4

45. Ward, p 64

46. AJHR, 1885, G-1, p 4

47. Ward, p 54

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With railway development at hand and the opening up of the interior becoming more of a reality, land purchase negotiations in the Whanganui region went on apace in the 1880s. As a land purchase officer, James Booth was busy in 1882. He acquired some 38,000 acres in the 'Whanganui District' at the cost of £17,000. He was also recorded as being in negotiation for a further 700,000 acres.⁴⁸ It was no wonder that Booth's appointment as the resident magistrate was so severely criticised by Maori. Within three years, a further 160,000 acres had been purchased and 130,000 acres leased.⁴⁹ In April 1886, Robert Ward, the resident magistrate, wrote to the Under-Secretary of Native Affairs expressing his delight with the 'immense amount of work' the Native Land Court had got through in the last year:

the titles of large blocks of land have been investigated and determined, and the Government have purchased large blocks . . . which will, I understand, in due course be thrown open for settlement.⁵⁰

Despite controversy over the practice (discussed above), land purchase officers were continuing to pay advances and were thus operating before the Native Land Court had determined title. In 1888, a return to Parliament showed that over £12,000 had been spent on various blocks in the region up to March 1884.

48. 'Lands Purchased and Leased from Natives in North Island', AJHR, 1882, C-4, p 12

49. 'Return of Lands Purchased or Leased', AJHR, 1885, C-7, pp 11–12

50. Ward to Under-Secretary of Native Affairs, 24 April 1886, AJHR, 1886, G-1, p 18

Another 1888 return showed that many of these blocks had still not passed through the Native Land Court.⁵¹

5.6.2 The Waimarino block

In 1886 and 1887, the Crown acquired a huge block of land along the route of the main trunk railway known as the Waimarino block. Stretching from north of Ohakune to Taumarunui, this block encompassed the land of upper Whanganui iwi. An application was made to the Native Land Court for an investigation of title by Rangihuatau and 15 others of the Ngati Maringi hapu in September 1885. The sitting took place in March 1886, and after two weeks the court ordered that 14,977 acres should be set aside for Tareti Te Waimarama, 18,525 acres for Te Kiritahanga, and 2309 acres for Ngati Pare. The remaining 454,189 acres were awarded to the 1006 owners listed by Rangihuatau.

Rangihuatau conducted the case, a position likely to result in anomaly given his application for ownership and that decisions regarding this were largely based on his recommendations.⁵² When witnesses disputed Rangihuatau's claim of exclusive right of ownership, there was an adjournment of three hours, following which the objectors were included as 'owners'.⁵³ It appears that the Native Land Court was anxious to award in favour of Rangihuatau and his supporters and to do so quickly. A request from Kemp and Topia Turoa for a further adjournment on the ground that many Whanganui Maori had been unable to attend the sitting was declined.⁵⁴

51. Ward, p 63

52. See Paul Hamer, 'The Crown Purchase of the Waimarino Block', TOWPU report, August 1992, p 14

53. Marama Laurenson, 'The Crown's Acquisition of the Waimarino Block', draft report, June 1991, p 14

54. Laurenson, p 61

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In late March 1887, a land purchase officer named Butler applied for a subdivision of the block. He produced a deed of purchase and, claiming to have the shares of those who had agreed to sell to the Crown, asked the court to award the shares of those people, 'leaving the non-sellers to prove the extent of their claims'.⁵⁵ Topia Turoa, one of the sellers, asked that Butler identify the land to be alienated, but he responded that it was up to the non-sellers to prove their own claims. An adjournment was requested by Hori Pukehika, who stated that the list of owners was incomplete. This request was turned down on the basis that 'all the requirements of the law had been fulfilled' with regard to the claim being gazetted and 'the work of the Court upon the original investigation' had to be accepted. This meant that 'by the legal technicalities, claimants likely to have land interests in the block, were effectively denied recognition of those interests'.⁵⁶

Not only was Butler evasive about the position of the block to be given up to the Crown but court minutes show a lack of understanding of entitlement:

about who should have been listed but weren't, and of those who could point out hapu boundaries and those who could not, and [there was] a near absence of witnesses because the old people had gone home or were ill. Only three were in fact in Court. Somehow, out of this confusion, the Court was to determine the interests of the non-sellers.⁵⁷

In addition, the court again relied heavily on Rangihuatau, who made a statutory declaration as to the various hapu boundaries. On the basis of this inadequate inquiry, the court concluded that the interests of the non-sellers amounted to 41,000 acres, leaving the question of the boundaries of that land to be determined after the sale of the bulk had been confirmed by the court. When only three non-selling witnesses appeared in court to settle the question, the Judge

55. Cited in Ward, p 70

56. Ward, p 70

57. Ibid

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commented that ‘it will be . . . [their] own fault if they are located on the precipices and pinnacles’.⁵⁸

It is clear that these people had little control over the alienation of the Waimarino lands:

The signatures collected by Butler, and Rangihuatau’s statutory declaration were considered to be sufficient for the Crown to set aside the protests of hundreds, manifested by their statements or by their absence, deliberate or otherwise.⁵⁹

58. Cited in Laurenson, p 57

59. Ward, p 74

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According to the 1888 return of land purchased and leased, two shillings per acre was paid for the block, £1192 before 31 March 1881 and £40,182 after.⁶⁰ Some 50,000 acres were also to be reserved for the vendors, but when asked about their location, Chief Judge MacDonald replied that it was ‘a matter with which this Court has nothing to do’.⁶¹ The survey of the Waimarino reserves and subdivisions was not completed until 1896 and then encompassed only 34,634 acres.⁶² Paul Hamer, a Treaty of Waitangi Policy Unit historian, conceded that these reserves were set aside ‘without meaningful consultation as to their location’ and were mostly situated along the Whanganui River, where land was generally poor in productive terms.⁶³

The purchase of the Waimarino block was the subject of continued protest to the Crown, mainly in the form of petitions to the Native Affairs Committee. As early as 1886, there was a petition concerning the payment of differing sums to claimants.⁶⁴ In 1887, Te Kere Ngataierua and others appealed against the inclusion of the Opatu block in the sale of the Waimarino block. Te Kere opposed the Native Land Court and had not appeared in it. Such appeals for rehearing on the ground of absence were not favourably looked upon by the committee, and Te Kere’s appeal was turned down. Te Kere also petitioned the committee about the sale of the block without his consent, but no recommendation was made on the matter. In 1922, Te Kere and his people were eventually given

60. ‘Return of Native Land Purchases in the North Island since 1 April 1884’, AJHR, 1888, G-2, p 3

61. Ward, pp 73–74

62. Hamer, p 20. It also appears that sections 28 to 32 of the Native Land Court Act 1880, which required that the approved survey land be made available for inspection and any objections be dealt with, were not followed by the Crown. The plan’s availability was not notified in the *Gazette* or *Kahiti*.

63. Hamer, pp 33, 20

64. ‘Petition of Tapa Paroto, Te Aurere, Himu Materoa, and Others’, AJHR, 1886, I-2, p 28

1492 acres in the Tawata Valley, some 21 years after this recommendation was made.⁶⁵

Some of the worst practices of the Native Land Court were highlighted by the Waimarino case. The minutes of evidence show:

how Maori group control of permanent land alienation were circumvented by the settler-controlled state . . . [through] Piecemeal purchase of individual interests before the land had gone through the court and the customary title had been extinguished, then the ramming through of the purchase, controlled by some willing sellers, to the accompaniment of the bullying of the judge, total reliance on deeds of permanent sale signed by individuals (before the hearing), plus the rule obliging witnesses to appear and give evidence on court or have their interests ignored.⁶⁶

Whanganui Maori had strongly expressed their views on the subject of a controlled and careful opening up of their land to Ballance at the Ranana hui in 1885. The practices detailed above certainly served to undermine Maori authority and frustrate their wishes.

5.6.3 Further legislation

The Government's determination to speed up the alienation of Maori land was also evidenced by legislation passed in the late 1880s and 1890s. Under the North Island Main Trunk Railway Loan Application Act 1886, £100,000 was allocated for acquiring 'Native or other' land within the boundaries of the Native Land Alienation Restriction Act. By section 5 of this Act, 2.5 percent of this land could be set aside for education, hospital, and other endowments and the remaining 97.5 percent as railway reserves. This piece of legislation:

65. Laurenson, p 92

66. Ward, pp 75–76

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clearly reveals what had been relatively apparent as the Government's intentions behind the Native Land Alienation Restriction Act 1884 for some time. Government pre-emption over the Rohe Potae was designed to facilitate Government purchase of large amounts of land along the line at a low price (given the Government monopoly), so that the land could later be resold to settlers at an inflated price to help finance the railway.⁶⁷

Other legislation in this period clearly advantaged the purchaser.

Under the Native Land Act 1888, the Governor could remove restrictions on the alienation of any land without the support of a majority of the Maori owners, while the Maori Real Estate Management Act 1888 provided for the interests of minors listed in Native Land Court titles to be freely alienated by elders named as trustees.⁶⁸

With such provisions, it became easier for land purchase officers to acquire land. An 1899 return, which listed land extending 10 miles on either side of the railway from Taihape to Taumarunui, recorded that from a total area of over 750,000 acres, the Crown had acquired 434,427 acres, a further 89,034 acres had been alienated, and 235,582 acres remained in Maori tenure.⁶⁹ Butler had begun negotiations for the Ruanui block in 1892 and by the end of May 1893 he had acquired 1610 acres for £966.⁷⁰ The neighbouring 1120-acre Ngarukehu block was acquired by the Crown in June 1896.⁷¹ The Raketapauma block, which bordered the above two blocks to the north, was acquired by June 1899 for £2600.⁷² To the north-west, in the Raetihi block, 4085 acres had been acquired by the end of 1897 for £840, and in the Rangiwaea block, 22,650 acres had been acquired by 1897.⁷³ By

67. Hamer, p 13

68. For further examples of similar legislation, see Ward, pp 107–116.

69. 'Table Showing Lands along the Central Route of the North Island Main Trunk Railway', AJHR, 1899, D-1, pp 118–119

70. AJHR, 1894, G-3, p 3

71. AJHR, 1897, G-3, p 4

72. AJHR, 1899, G-3, pp 6–7

73. AJHR, 1897, G-3, p 4

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1901, some 29,404 acres had been acquired by the Crown in the Murimotu block.⁷⁴

As Hamer has pointed out:

assurances about leasing, about the value of Maori land, and about the extent of the Government's designs on that land, seem somewhat contradicted by the Government's policy.⁷⁵

5.7 TONGARIRO NATIONAL PARK

74. AJHR, 1901, G-3, p 5

75. Hamer, p 13

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Another move to deprive Whanganui Maori of a precious taonga was the formation of the Tongariro National Park in 1894. Concern about Mount Tongariro, Ngauruhoe, and Ruapehu had been expressed for some time, owing to land all around the mountains being brought before the Native Land Court with a view to establishing ownership. An offer was made by Te Heuheu Tukino and Ngati Tuwharetoa in 1887 concerning land to a radius of one mile around the peaks of Tongariro and Ngaruahoe and to a radius of two miles around Ruapehu.⁷⁶ Te Heuheu was prompted by his concern that the mountains would be passed through the court and cut up and sold. His son-in-law, Laurence Grace, had raised the idea of giving the mountains to the Crown, well aware that the idea of national parks was being debated in Parliament. An immediate petition by Te Moanapaku asked for a land court rehearing of the subdivision of this land, because he claimed he was attending a land court hearing in Wanganui at the time the matter was adjudicated upon.⁷⁷ Kemp also protested against the action, believing that the Whanganui people should have been consulted.⁷⁸

76. Te Heuheu Tukino to the Native Minister, AJHR, 1877, G-4, pp 1–2

77. 'Petition of Te Moanapaki', AJHR, 1877, I-3, p 2

78. Merylyn George, *Ohakune: Opening to a New World*, Ohakune, 1990, pp 241–243

5.8 THE 1880s

The 1880s saw repeated attempts by Whanganui Maori to control land selling activities and to engage with the settlement process on their own terms. Kemp's trust endeavoured to unify Maori and induce them to act together to take control of the alienation of their lands. Railway development and the resumption of pre-emption were to have a strong impact on Maori attitudes towards land selling. While they were repeatedly told that the land question and the railway were separate issues, it became increasingly obvious to Maori that the two were inextricably linked. The dilemma gave rise to an inter-tribal alliance born out of the 1883 petition to Parliament, which renewed the plea for a more equitable system of land purchasing and administration. With the establishment of native committees, Maori hoped that the plea had been answered, but it became obvious that the Native Land Court was to retain the overall authority in determining title to land. The Waitangi Tribunal has concluded that the Native Committees Act 1883 gave Maori 'no effective power to administer their lands'.⁷⁹

It was the Native Land Court process – the only way for Maori to establish title to their lands – and the related land purchase practices that Whanganui Maori felt particularly aggrieved about. Of particular concern to Maori were the fees and other expenses involved in attending the sittings and the cost of

79. *Pouakani Report 1993*, p 306

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surveys, all of which contributed to mounting debts. Another concern was the paying of advances and the making of agreements between some Maori individuals and Government land purchase officers outside the Native Land Court, which agreements were subsequently confirmed by the court.

Throughout this period, Maori were continually to express their desire to halt the sales, and they expounded their preference for leasing and self-administration. The Tribunal has found ‘plenty of evidence that tribal leaders wanted to avoid the worst problems created by land dealing’ by keeping the Native Land Court away from their land and administering it themselves.⁸⁰ But Government policy and actions clearly worked in opposition to this:

80. *Ibid*, p 307

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There is also plenty of evidence that the Government intentions were that Crown sovereignty would be imposed, government institutions extended into the region and the lands . . . 'opened up' for Pakeha settlement. Parliament also sought to protect its investment in the construction of the North Island main trunk line by imposing a Crown right of pre-emption in the hope of paying off its substantial debts by profits from the sale of land.⁸¹

As Ward has concluded:

The responsible, serious and cooperative effort by the central North Island tribes to establish the Rohe Potae [and Kemp's trust] and permit settlement, mainly on a leasehold basis, was deliberately and systematically undermined by a government and its agents determined to get the freehold . . . [Maori] leaders had tried to avoid this [the individualisation of land], but the land law, taking advantage of their traditional divisions and jealousies, pushed them steadily towards a listing of individual interests on Court orders.⁸²

81. Ibid

82. Ward, p 93

CHAPTER 6

THE STOUT–NGATA COMMISSION

6.1 COMMISSION ESTABLISHED

In 1907, because of concern at the resumption of land purchasing after a period of fewer sales in the early 1900s, the Government commissioned Chief Justice Robert Stout and Apirana Ngata to inquire into:

the areas of Native land which are unoccupied or not profitably occupied, and as to the models in which such lands can best be utilised and settled in the interests of the Native owners and the public good.

The commission's report was to summarise land purchase activities in the Whanganui region from the 1880s:

The Crown has been purchasing largely in this district since the early eighties. We find that from 1881 to the present time, during a period of twenty-six years, the total area purchased is nearly 1,273,000 acres, at a cost of £273,340. Nearly one-half of this area lies within the boundaries of what may be called the North Island Main Trunk Railway loan system of blocks, and was acquired in conjunction with that undertaking. Deducting from the cost incidental expenses, the amount paid to the owners did not average more than 4s an acre. We believe that for the practical cessation of Crown purchases between 1901 and 1905 another quarter of a million acres would have been acquired. The Maoris knew in later years that they were parting with their lands at absurdly low prices, but the restriction against private dealings left them no alternative. They had to sell to the Crown at the latter's price, for, among other things, Court fees, agents' costs, and survey charges had to be met, and in litigation, in order to substantiate claims to one block, a whole tribe will recklessly throw away the land it has already won.¹

6.2 DISTRICT DIVIDED INTO FOUR AREAS

1. 'Native Lands in the Whanganui District', AJHR, 1907, G-1A, pp 15–16

In order to present a ‘bird’s-eye view’ of the district, Stout and Ngata divided it into four areas and they examined each area closely.²

6.2.1 The first area

The first area was to the east of the Whanganui River and stretched from just south of Koriniti north to the Manganui-a-te-Ao River. Here, Maori owned a total of 134,653 acres. Of this, 3636 acres had not had their title ascertained, 3823 acres were being leased, 107,870 acres had been vested in the Aotea Maori Land Board and were presumably being leased or at least were ready for immediate settlement, and the remaining 19,334 acres were not subject to any dealings.³ Up to a few years prior to the commission:

this tract of country was practically virgin to settlement, although from its position there was no area so suitable for small-grazing runs or so well favoured, with the Whanganui River as a large waterway to the west, the North Island Main Trunk Railway to the east, and many possible, if unformed, roadways from east to west.⁴

6.2.2 The second area

The second area considered by the commission was to the west of the Whanganui River and the first area, was ‘intermixed with large areas acquired by the Crown’, and was ‘owned in varying proportions by the same hapus as are in the first group’,

2. For a map showing lands dealt with in the Whanganui district, see AJHR, 1907, G-1A.

3. ‘Native Lands in the Whanganui District’, AJHR, 1907, G-1A, pp 1–2

4. Ibid, p 2

although these hapu were not named. Those blocks retained by Maori in this area were the ‘remnant of a large estate’, part of which had been the Taumatamahoe block. In this one block, in 21 years, the Crown had acquired upwards of 130,000 acres from a total of 155,300 acres. A similar pattern was followed with the Whakaihuwaka, Te Tuhi, and Ahuahu blocks:

Thus in four blocks, which had originally formed a Maori estate of over a quarter of a million acres, the Crown has acquired all but 44,514 acres. Between these blocks and the confiscation boundary the Crown has purchased the whole area.⁵

The owners of the Whakaihuwaka and Taumatamahoe blocks were ‘unanimous and emphatic in urging that the Crown cease purchasing’. They also complained that land had been purchased for less than the full value. In the former of the two blocks, the price paid was 7s 6d per acre, whereas neighbouring land had been sold for £1 10s per acre. Owners also explained that the sale of land had been agreed to ‘in conference with the Native Minister in order to meet the loud and insistent demand for land for general settlement’. It appears, however, that many of those who had interests in the Whakaihuwaka block possessed no other land. The owners proposed to the commissioners that papakainga reserves should be made around certain existing settlements. The commissioners were also informed of ‘an understanding that on definition of the Crown interests reserves would be made for sellers, and that many sold on this understanding’.

5. Ibid, pp 3–4

6.2.3 The third area

The third area examined by the commissioners was to the north of the other two areas and lay on both sides of the Whanganui River. It belonged to 'the up-river section of the Whanganuis, only a few of whom', they believed, were 'owners in lands to the south'.⁶ Land purchase officers had been busy in this area also. The Maraekowhai block originally contained 54,000 acres, of which the Crown had purchased 22,529 acres. In the Whitianga block, the Crown had acquired 14,807 acres of the original 26,399 acres. To the east was the Waimarino block, which has already been discussed in some detail. While the Crown was awarded 378,081 acres, reserves for the sellers amounted to 33,115 acres, and those for the non-sellers, 41,000 acres. The commissioners were to comment that never in the whole history of the colony had there been a purchase 'so extensive in any district, or one completed with such expedition'.

Much of this third area appears to have been leased or in negotiation for lease. Portions of land in the Maraekowhai and Waimarino blocks were:

much sought after by Europeans . . . The Maoris allege that the favourite argument of every Pakeha wanting a lease was that if the Maoris did not lease the Government would muru or take the land compulsorily.⁷

The owners of the land urged the speedy partition of a number of blocks so that the interest of each individual or family could be defined and allocated:

Beyond this point they were not prepared to say what would be done with the land . . . That would be for each individual or family to decide . . . Anyhow, they preferred, if the lands were to be leased, that they themselves should do this independently of the Board.⁸

6.2.4 The fourth area

6. Ibid, p 5

7. Ibid, p 6

8. Ibid. The Aotea District Maori Land Board was set up under the Maori Land Administration Act 1900.

The fourth and final area consisted:

of blocks lying to the east and south of the first group, some abutting . . . on the . . . Railway, others lying in the basins of the Mangawhero, Whangaehu, and Turakina Rivers. This has been the direction of the most vigorous European settlement either upon lands purchased from the Maori owners by the Crown or upon Maori leasehold.⁹

Crown purchases totalled 192,013 acres, while land remaining in Maori ownership amounted to 123,908 acres.

Of great interest to the commissioners was the fact that in this area the titles to blocks owned by Maori were much more advanced than in any of the other three areas, with subdivisions having been made into individual and family holdings. The individual holdings were considerable, as high as 1160 acres in some cases, and it was not unusual to find one man holding interests in a number of blocks. The commissioners' explanation for this practice was linked to the railway:

9. Ibid, p 8

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The demand for land in this locality is explained by its position on the Main Trunk Line, which passes through Raetihi, Rangiwaea, Murimotu, Raketapauma, Ruanui, and Ngaurukehu Blocks. The enhanced value, apart from the natural advantages as a pastoral and agricultural country, has justified the comparative activity of the Maori owners, assisted by the Court, in pursuing the European ideal of individualising their holdings.¹⁰

The commissioners believed that wholesale exchanges between individuals and families arose from this:

to expedite the consolidation of . . . holdings, a consummation that no one desires so devoutly or finds so very difficult to achieve as the Maori who may own thousands of acres of land, but finds his wealth distributed and dissipated over a hundred or more square miles in forty or more different blocks.¹¹

For Maori, scattered holdings were a major disadvantage of individualisation.

10. 'Native Lands in the Whanganui District', AJHR, 1907, G-1A, p 9

11. Ibid

6.3 THE RANGIWAEA BLOCK

In their report on Whanganui lands, the commissioners also gave an account of dealings concerning the Rangiwaea block (55,000 acres) to illustrate the difficulties experienced by the Whanganui iwi in securing title to their lands. It took the Native Land Court four months in 1893 to determine title to the block. These proceedings cost Maori £70 in court fees, over £1200 in solicitors' and agents' costs, and about £800 in living expenses, not allowing for waste and low estimates. Thus, 'apart from cost of survey, the original investigation cost the Natives over £2,000'.¹² Straight afterwards, the Crown purchased 22,000 acres, and this land was partitioned in 1896, costing the non-sellers more in partition and survey charges. In the following 12 months, the Crown purchased another 6000 acres, entailing more partitions in 1899, 1900, and 1901:

At each step costs were incurred in Court fees, agents' fees, and expenses in attendance. We [the commissioners] find that Court costs on partition amounted to nearly £100, costs in succession orders £20, and survey charges borne by the Maoris who have not sold their interests about £600, while agents' fees and expenses of attending the Courts may be estimated at £750. We think that at a low estimate the cost to the Maoris of obtaining their titles to this block since 1893 may be put down at £4,200. Further surveys are required to complete partitions recently made by the Court, and further subdivisions will be necessary . . . The Crown has bought 29,000 acres in the block at an average price of 5s an acre, paying £7,200. Now, let it be remembered that the Maoris have had to undertake the task of securing proper titles to their lands without capital. They have been compelled to sell portions of the land to pay the cost, and in the case of Rangiwaea one may say that they have lost more than one-third of the block in order that they may secure title to the rest.

12. *Ibid*, p 10

The commissioners continued:

We do not comment on the length of time – fourteen years – which has elapsed since the ancestral title gave way to a title held from a legal tribunal of the colony; on the necessary delays at each subsequent step of the process in the order to have the subdivisions surveyed, without which the next step, the further subdivisions, could not be made. We need not point out that the Maoris are entitled to some consideration at the hands of those who rashly and without knowledge of the circumstances charge the Maori with the responsibility of delay and blocking the settlement of his land. Rangiwaea is not a solitary instance in this district. We can quote Raetihi, Maungakaretu, Raketapauma, Murimotu, and other blocks where the same process has gone on, the same costs incurred, and with the same results.¹³

6.4 THE NATIVE LAND COURT PROCESS

The Waitangi Tribunal has expressed strong concerns about the inherent cost to Maori of the Native Land Court process and the resulting effects. In the *Pouakani Report 1993*, the Tribunal expressly commented on survey costs.¹⁴ Furthermore, Maori were often forced ‘to pay other costs in the process of establishing a title to their own lands, and to engage in expensive litigation when disputes occurred’.¹⁵ While the Tribunal accepted that surveys were necessary to identify boundaries and that there had to be some system of establishing ownership when a sale was considered, it did not accept the necessity or inevitability of the Native Land Court process:

By imposing requirements of survey, fees for investigation of title in the Native Land Court, and other costs such as food and accommodation away from home during hearings, many Maori were forced into debt. Maori were satisfied with their established forms of tenure of land. There is nothing in the Treaty which required the transmuting of this tenure into one cognisable in British law. Why could the law not recognise Maori custom and usage? That there had to be a fair system of establishing ownership when a sale was contemplated is accepted. The legislation under which the

13. Ibid

14. *Pouakani Report 1993*, p 243

15. Ibid

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Native Land Court operated went much further than that and required that all Maori land be passed through the court, with the attendant costs of that process.¹⁶

16. Ibid, p 244

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The commissioners concluded that 500,000 acres of the original area of nearly 1,773,000 acres remained in Maori ownership in the Whanganui district. While judging that a minority of these owners could afford to sell a proportion of their interests, they did not think it wise 'to treat the mass as having surplus lands for sale. We do not think it advisable that the present system of purchasing be continued in this district.'¹⁷

17. 'Native Lands in the Whanganui District', AJHR, 1907, G-1A, p 16

CHAPTER 7

CONCLUSION

From the initial ‘purchase’ by the New Zealand Company in 1839 through to the end of the nineteenth century, land alienation in the Whanganui region was fraught with misunderstanding, confusion, and conflict of one form or another. While Maori demonstrated a willingness to engage in the Pakeha settlement process, and in some cases to alienate land, their overall desire was to control the course of events and to maintain their rangatiratanga. Efforts by Pakeha to hasten the process of land alienation and settlement met with determined opposition from Maori. This opposition, however, was steadily undermined by the Government and its agents, their main objective being the individualisation of Maori title and the subsequent obtaining of freehold title.

The New Zealand Company purchase at Whanganui was not a favourable start to the process of land alienation in the region. Despite Commissioner Spain’s admissions of widespread confusion over the terms and conduct of the sale, the Crown accepted the company’s deed as a valid conveyance. The following two decades witnessed little in the way of land purchase activity but were a period of intense disorder, with the emergence of the Kingitanga and Pai Marire movements and conflict both within and outside the region. During this period, divisions between Whanganui iwi were recognisable.

By the 1870s, however, Whanganui iwi were making strong attempts to unify themselves. Escalating land purchase activity, combined with an awareness of the effects of alienation, made it apparent that cooperation among Maori was necessary. Increasingly anxious about the security and administration of their land, Maori turned to their own runanga to settle disputes and determined to resist land purchases and enter into leases on their own terms. Kemp’s trust served such a function.

The 1880s were to be dominated by railway development and the resumption of pre-emption. Increased land purchasing activity by the Government was to expose Whanganui Maori to the Native Land Court process and its accompanying practices. This was to be the focus of many grievances. While Maori clearly wanted to avoid the problems of land dealing, Government policy worked in opposition. By 1907, less than a third of the land in the Whanganui district remained in Maori ownership.

PART II

1907 to 1990

CHAPTER 8

MAORI LAND LOSSES IN THE WHANGANUI DISTRICT

8.1 THE POLITICAL BACKGROUND

There is a comprehensive account of Maori political development in the period under review here by historian John Williams and the following account is drawn from that book, supplemented by information from official records and other sources.¹

During the 1880s and 1890s, many Maori leaders had spoken in favour of, and requested that the Government grant, powers for Maori to manage their lands through a system of controlling councils and local committees composed of Maori representatives. During the late 1890s and early 1900s, there was continued debate within Maori circles over how best to manage their own affairs. This debate led to the creation of a Maori parliament, which met at Waipatu in 1893. The parliament had been formed with considerable support from Keepa Te Rangihwinui (Major Kemp) and others of the Whanganui district.

In 1897, a major hui was held in Whanganui and was attended by James Carroll, then Native Minister, and Maori from all over the country. Te Rangihwinui was a prominent speaker at that hui. The hui attempted to reach agreement on the best method of preserving what was left of Maori-owned land for Maori of that time and future generations.²

At its meeting in 1900 in Rotorua, Apirana Ngata persuaded the Maori parliament to agree to 'Bills' to be presented to Government that, inter alia:

- reserved all Maori land in the North Island – this was not implemented by the Government; and
- replaced the Native Land Court with six district land boards and local land committees (mainly to investigate land titles in place of the Native Land Court).

The second Bill did not seek total Maori legal control but sought Government supervision (this measure was implemented to a large extent by the Government). The Government was swayed by these demands and passed the Maori Lands

1. John Williams, *Politics of the New Zealand Maori*, Auckland, Auckland University Press and Oxford University Press, 1968
2. See AJHR, 1951, sess I, G-5, pp 14–15

Administration Act and the Maori Councils Act in 1900 with majority Maori support.³

3. Williams, p 108

The Maori councils were to have powers comparable to Pakeha local authorities and would operate to improve Maori social conditions. For example, Maori councils would be empowered to enforce sanitary regulations affecting Maori dwellings, meeting houses, and water supplies, and would also be able to prevent the sale of alcohol and tobacco to minors.⁴

Despite Maori opposition, the Maori Councils Act 1900 allowed the councils to have a majority of Pakeha members. However, notwithstanding Pakeha opposition, Maori were able to withhold their land from council jurisdiction. Another compromise for Maori contained in the Act was that the land councils did not replace the Native Land Court, although they did have limited judicial powers and could set aside inalienable reserves (in order to prevent Maori from becoming 'landless') and sell Maori land. The main function of the land councils, however, was to lease Maori land.⁵

The preamble to the Maori Lands Administration Act 1900 noted that:

- Maori had urged (from at least 1890 onwards) that their remaining lands be protected against the risk of their being left landless;
- in the interests of all New Zealand, large areas of Maori land currently 'lying unoccupied and unproductive' should be utilised and also be better and more cheaply administered; and
- 'It is necessary also to make provision for the prevention, by the better administration of Maori lands, of useless and expensive dissensions and litigation, in [a] manner hereinafter set forth.'⁶

It is somewhat ironic that the Government was, by 1900, describing activities forced on Maori as a result of the Native Land Court (which had been in operation since 1865) as useless and expensive. It is even more surprising that the Government, despite Maori opposition, continued with that process.

From 1901 to 1905, both new Acts were tested by Maori. Maori councils met regularly and the meetings were used to air grievances. As a result of these meetings and subsequent discussions with the Government, a number of royal commissions and parliamentary inquiries were held to deal with the grievances.⁷ Maori health officers were appointed and, in 1904, Carroll established the position of native sanitary inspector to ensure the systematic inspection of Maori villages. Maori councils were closely involved with the inspectors in cleaning up villages and enhancing hygiene standards.⁸

4. Williams, p 109 (quoting NZPD, vol 115, 12 December 1900, p 201)

5. Ibid

6. See 'Report of Royal Commission Appointed to Inquire into and Report upon Matters and Questions Relating to Certain Leases of Maori Lands Vested in Maori Land Boards', AJHR, 1951, G-5, p 19

7. Williams, p 113

8. See discussion in I Pool, *The Maori Population of New Zealand 1769–1971*, Auckland, Auckland University Press, 1977, p 143

Maori extended the use of the legislation regarding the Maori councils and in some cases imposed penalties and enforced laws beyond the powers available to them.⁹ The councils thus became unpopular among Maori, but had the positive effect (for the Government) of dampening Maori support for the Maori parliament. According to Williams, the Maori council general conferences held from 1903 to 1911 had replaced the general sessions of the Maori parliament.¹⁰

The Maori land councils were important because they involved Maori in the processes of decision-making. Because only seven councils were set up, most had too large an area to service and had to deal with iwi and hapu who were often in dispute or who were traditional enemies. Thus, according to G V Butterworth and H R Young (historians who published a history of the various Crown agencies responsible for Maori affairs), a conflict arose between Liberal politicians, who wanted the land councils to deal with large areas of land quickly and make it available for leasing, and 'Maori land owners who wanted their titles ascertained and interests defined without the protracted sittings and the expenses of appearing before the native Land Court'.

A return to Parliament in 1905 that summarised the work of the councils till 31 March 1905 illustrates this conflict well. All that the Pakeha members of Parliament could see was that the Maori councils had cost the Government £8289 and only 6773 acres of land had been leased (most of this in the Whanganui district) – that is, the results were far too slow. From the Maori viewpoint, 30,710 Maori owners had obtained titles through the councils for 347,711 acres, without the protracted sittings and high expenses that were still a feature of the Native Land Court.¹¹

Maori were increasingly dissatisfied with the Maori land councils, however, and opposition to them in the newspapers and in Parliament forced changes in 1905. Only in Whanganui and on the east coast did Maori willingly vest their lands in the councils. Elsewhere, the councils were unsuccessful in determining land titles or in making land available for settlement. Opposition to the councils was strong from the King movement, who saw them as 'servants of the state bureaucracy'.¹² There was also opposition from Pakeha, who initially believed the councils would free up Maori land for sale and lease. When this did not occur, and Pakeha were able to lease land only from what they perceived to be Maori landlords, Pakeha opposition mounted. Newspapers reported large areas of Maori land that did not pay rates. Pakeha politicians demanded that something be done. Thus, the Government passed the Native Land Rating Act in 1904, giving powers to the Native Minister to compulsorily vest land in the Maori land councils for non-payment of rates. Maori were given restricted rights to vote for local body members (up until that time only Pakeha could stand for local bodies).¹³ According to Butterworth and Young, this

9. Williams, p 114

10. Ibid, p 115

11. G V Butterworth and H R Young, *Maori Affairs*, Wellington, Iwi Transition Agency, 1990, p 62

12. Williams, p 118

13. Ibid, p 125

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was a move designed to stave off demands from Pakeha for an end to Carroll's taihoa policy on Maori land purchases.¹⁴

The Maori Lands Administration Act 1900 was amended in 1905 by the Maori Land Settlement Act to allow for State aid for Maori to develop their own land. Ngata (elected the member for Eastern Maori in 1905) and Seddon sponsored these changes. But the Government gave in to Pakeha pressure and changed the make-up of the Maori land councils. The provisions requiring the election of at least two Maori to each council (which had to consist of at least five members) were replaced and a system of three-member boards was set up. The members of the boards were nominated and at least one had to be Maori. The boards were given powers to take over Maori land deemed not necessary or suitable for Maori use. Many of the councils' restrictions on leasing were removed and private individuals were allowed to negotiate directly with Maori owners to lease land.

14. Butterworth and Young, pp 62–63. Carroll had a declared aim of implementing a 10-year moratorium from 1899 on Maori land purchases by the Government in order that Maori could organise themselves to utilise their own land for their own benefit and lease any surplus to obtain capital for their development.

The Government also began to purchase Maori land again. In 1906, the upper Whanganui was targeted by land purchase officers.¹⁵ Williams states that the Stout–Ngata native land commission, which sat during 1907 and 1908, was an attempt by the Government to offset the compulsory powers granted to Maori land boards. The Stout–Ngata commission toured the country, meeting with Maori landowners, and decided in consultation with them what areas of land Maori could afford to open up to outsiders for settlement and what areas they required for themselves.¹⁶ The commission was an important element in the story of Whanganui lands.

8.2 THE STOUT–NGATA COMMISSION

An account of the Stout–Ngata commission’s work in the Whanganui area is contained in chapter 6. Alan Ward has also taken selected statements of the commission and discussed them in relation to the Whanganui and adjacent Rohe Potae lands.¹⁷ Perhaps the most important observations and recommendations of this commission relating to the Whanganui district were as follows:

We have already remarked on the injustice of Crown purchases prior to 1905, and shown how a vast estate passed from the Maori owners for the purposes of general settlement in the Whanganui and Rohe Potae districts at a price which seems inadequate.¹⁸

Evidence given to the Stout–Ngata commission was that the average price paid by the Crown for land in the Whanganui district from the early 1880s to 1906 was four shillings per acre. Owners of the Whakaihuwaka block complained to the commission that they had been paid about 7s 6d per acre, while adjacent owners of

15. *Evening Post*, 4 April 1906, p 7; 17 May 1906, p 4; AJHR, 1907, G-1c, p 6

16. Williams, p 128

17. A Ward, ‘Whanganui ki Maniapoto: Preliminary Historical Report – Wai 48 and Related Claims’, report commissioned by the Waitangi Tribunal for Wai 148 and related claims, 1992, pp 98–107

18. ‘Native Lands and Land Tenure: General Report on Lands Already Dealt With and Covered by Interim Reports’, AJHR, 1907, G-1c, p 8

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the Mangaporau block were paid £1 10s per acre. Owners of the Taumatamahoe and Rangiwaea blocks were paid 10 shillings and five shillings an acre respectively, which they also complained to the commission was too low. The prices paid for some other blocks of land in the Whanganui district and the lower North Island are recorded in tables 1 and 3 and are discussed later in this section.

Maori Land Losses in the Whanganui District

The commission stated:

In dealing, therefore, with the lands now remaining to the Maori people we are of the opinion that the settlement of the Maoris should be the first consideration. It is because we recognise the impossibility of doing so on a comprehensive scale by the ordinary method of partition and individualisation that we recommend the intervention of a body, such as the Maori Land Board, to be armed with powers sufficiently elastic to meet the exigencies of the situation.¹⁹

Referring to the limited amount of land left for Maori and for their needs into the future, the commission recommended ‘that the purchase of Native lands by the Crown under the present system be discontinued’.²⁰

The commission reflected the views of the many Whanganui Maori who had made submissions to it that certain very limited areas of land could be sold through the land boards and the proceeds put in trust to be used to develop their remaining land. Maori, in the main, favoured leasing their remaining surplus land.²¹

When the Stout–Ngata commission released its interim report for the Whanganui district in 1907, it stated that, of an estimated original 1.7 million acres of land, there were still about 500,000 acres (30 percent) remaining in Maori ownership.²² Some 134,653 acres of land in Maori ownership lying to the east of the Whanganui River should be ‘rendered available for settlement’. Approximately 108,000 acres of this were already vested in the Aotea Maori Land Board (most of it vested by owners under the Maori Land Settlement Act 1900) and were leased or available for lease.²³ Some 89,000 acres were vested by deed of trust; 11,661 by Parliament; and 7200 by

19. ‘Native Lands and Land Tenure: General Report on Lands Already Dealt With and Covered by Interim Reports’, AJHR, 1907, G-1C, pp 15–16

20. *Ibid*, p 16

21. *Ibid*

22. AJHR, 1907, G-1A, p 16

23. *Ibid*, p 2

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Order in Council under section 4 of the Maori Land Settlement Act 1906 (which enabled land to be set aside for Maori occupation and settlement).²⁴

To the west of the Whanganui River, the commission estimated there were 51,000 acres of Maori-owned land, consisting of parts of the Taumatamahoe, Whakaihuwaka, Tawhitinui, Ahuahu, Te Tuhi, and Paetawa blocks. These blocks were bounded by the Taranaki confiscation line in the west (see fig 6). It was noted that, out of a total 250,000 acres of former river land held in this western region of the Whanganui district by Maori, only 44,514 acres (about 18 percent) remained in Maori hands at the time of the commission's inquiry, and the Crown was continuing to obtain further land there.

To the north, along the Whanganui River, remnants of the Waimarino, Maraekowhai, and Koiro blocks were identified by the commission as being available for 'settlement', as were the Raetihi, Rangiwaea, Murimotu, and various other blocks along the Wangaehu River to the east.²⁵

Year	Land block	Area in acres (rounded up)	Price per acre	Source (AJHR)	District
1890	Ahuahu	4300	£2 5s	1890, G-4, p 2	Whanganui
1892	Pouakani	2000	£2 15s	1892, G-4, p 3	Taupo
1892	Rotomahana– Parekarangi	2000	3s 6d	1892, G-3, p 3	South of Rotorua
1892	Heruiwi	40,000	2s 3d	1892, G-4, p 2	Rotorua
1892	Waikanae	2000	£1	1892, G-4, p 2	Wellington

24. Ibid, pp 2, 11

25. Ibid, pp 8–9

Maori Land Losses in the Whanganui District

1892	Pohonuiatane	31,000	7s 6d	1892, G-4, p 2	Whanganui
1892	Te Kapua	22,000	8s 3d	1892, G-4, p 2	Whanganui
1898	Hauturu	12,500	4s	1898, G-3, p 3	Waikato land
1899	Rangipo north	13,000	2s	1899, G-3, p 3	Central plateau area
1899	Rotomahana– Parekarangi	22,000	3s	1899, G-3, p 4	South Rotorua
1900	Pouakani	33,000	3s	1900, G-3, p 2	West Taupo
1900	Ngatipahiko	12,600	5s	1900, G-3, p 3	Rotorua
1902	Rangitatau	11,230	7s 6d	1902, G-3, p 2	Whanganui
1902	Puketotara	5000	2s	1902, G-3, p 2	Whanganui
1905	Rangitoto–Tuhua	10,000	3s 6d	1905, G-3, p 3	North of Whanganui

Table 1: Selected examples of Crown purchases of Maori land and the prices paid. Lands from other districts included for comparative purposes.

The commission noted that the Crown had purchased much of the Whanganui land over the 20 years immediately preceding their report. They estimated that, before alienation, the total Whanganui lands (including the Waimarino block) amounted to about 1.7 million acres. This figure is consistent with figures quoted in part I, with the addition in this case of the Waimarino block.

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In representations to the commission, Whanganui Maori expressed strong discontent with the Aotea Maori Land Board. Prior to the Maori Land Administration Act 1900, most Maori land in the district could be leased or sold only to the Crown. By 1907, the commission noted, Maori in the Whanganui had sold over 1.27 million acres to the Crown at what the commission described as ‘absurdly low prices’ (an average of four shillings per acre).²⁶ The commission further observed that ‘The purchase money has generally gone in litigation and riotous living’.²⁷

It is difficult for valid comparisons to be made between the different prices paid by the Crown for Maori land. This is because in 1995 there is only limited knowledge of how the particular lands were valued, the agricultural potential of the land, the location of access and roads, the negotiation strengths of the parties, and other relative factors. Table 1 and the figures quoted previously from evidence to the Stout–Ngata commission show that prices paid for Whanganui lands varied from three shillings to over £2. Similar prices were paid for land in adjacent regions, as table 1 demonstrates.

26. Ibid, p 15

27. Ibid, p 16

Maori Land Losses in the Whanganui District

In general, the larger the area purchased, the lower the unit price paid. This was further complicated by the distance from the land to the coast, or the proximity of roads and Pakeha settlements. The comments of the Stout–Ngata commission are therefore highly relevant and the commission made it clear that it agreed with Maori claims that the prices paid by the Crown were below true value. Additionally, the commission showed that up to one-third of the value of the land sold could be lost to the vendors in survey charges, court costs, and agents' fees.²⁸

Further research would be required to determine whether the prices the Crown paid for Maori land in the district were fair and reasonable. In assessing this question, account would need to be taken of the prices that Pakeha paid for Crown land in the district, any existing statutory requirements regarding Maori land sales to the Crown, and the provisions of article II of the Treaty (the pre-emptive right).

The Maori Land Administration Act 1900 allowed Maori to lease their lands through a Maori land council created for the purpose, rather than sell it to the council (later to become the board). In 1905, section 16 of the Maori Land Settlement Act provided for Maori landowners to negotiate the lease of their own lands. According to the commission, Whanganui Maori 'eagerly seized upon' this opportunity at the time and they later complained to the commission of the expense incurred in leasing through the Aotea Maori Land Board when compared with negotiating directly with lessees. The board subtracted the cost of surveying, roading, and administration from the rentals it received prior to paying out to the

28. See the discussion in AJHR, 1907, G-1A, p 10, on the sale of the Rangiwaea block. The commission stated 'one may say that they [the Maori vendors] have lost more than one-third of the block in order that they may secure titles to the rest'.

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owners.²⁹ Maori owners were also opposed to having to vest the fee simple of their lands in the board.

The commission stated that:

The position reached in 1906 was therefore this: that Parliament, or those initiating the Native legislation, recognising the unwillingness of the Maori people to place their lands under the administration of the Councils or Boards, had decided to use compulsion in certain cases.³⁰

The Stout–Ngata commission estimated that there was little Maori land left in the Whanganui district for alienation by lease or sale and concluded that it was not ‘advisable that the present system of purchasing [Maori land] should be continued’ in certain areas of the district.³¹ Williams’ assessment of the impact of the commission was that: ‘In general, they accepted the views of the owners and embodied them in their report. Unfortunately they could not ensure that their report would be carried out.’³²

29. For example, ‘Submission of the Aotea Maori Land Board to the Commission on Native Lands in the Whanganui District’, AJHR, 1907, G-1A, p 11

30. AJHR, 1907, G-1C, p 6

31. *Ibid*, p 16

32. Williams, p 128

Maori Land Losses in the Whanganui District

Block	Area in acres	Block	Area in acres
Te Autumutu	2204	Tauakira	14,900
Waharangi	11,299	Tupapanui	2450
Morikau 1 and 2	21,266	Mairekura	2785
Ngatipare	1610	Taumatamahoe*	42,565
Te Poutahi	2016	Whakaihuwaka*	63,700
Ranana	3100	Tawhitinui	3378
Ngarakauwhakarara	4995	Paetawa	3370
Te Tuhi	5243	Paekaka	1484
Ahuahu	1443	Ohutu	63,644
Ngaporo	2900	Maraekowhai	31,469
Koiro	7000	Whitianga	11,592
Raetihi	12,300	Rangiwaea	27,000
Waimarino	40,050	Waimarino reserves	33,140
Pohonuiatane	4505	Ruanui	8977
Murimotu	17,663	Raketapauma	11,718
		Total	459,766

* The Crown had recently acquired shares in the Taumatamahoe and Whakaihuwaka blocks equivalent to over 68,000 acres (from a combined area of 105,265 acres), but had not, by 1907, had these shares allocated by the Native Land Court. Thus, most of these two blocks actually belonged to the Crown. The Taumatamahoe and Whakaihuwaka blocks originally (in 1886) consisted of 155,300 acres and about 80,000 acres

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respectively. The Crown had acquired 115,000 acres of the Taumatamahoe block by 1899. It purchased about 80 percent (including the unallocated shares) of the Whakaihuwaka block in 1906.³³

Table 2: Significant blocks of land remaining in Maori ownership in early 1907. From AJHR, 1907, G-1A, pp 1–2.

8.3 STATUS OF MAORI LAND OWNERSHIP IN 1908

By 1907, a large proportion (approximately 70 percent) of the land and forests that had been the tribal property of the Whanganui people belonged to the Crown and private individuals. The main land blocks and the areas remaining in Whanganui Maori ownership are listed in table 2 and located on fig 6.³⁴

By 1908, Whanganui Maori were engaged in a struggle with the Crown over the ownership of the Whanganui riverbed. Whanganui Maori believed that they owned the bed of the river, but the Crown had already assumed the ownership of the bed by passing the Coal-mines Act Amendment Act 1903, section 14 of which made the beds of navigable rivers the property of the Crown. The Native Land Court hearing of the Ohutu block, which lay on both sides of the Whanganui River (see fig 6), had

33. AJHR, 1907, G-1A, p 3

34. See 'Interim Report on Native Lands in the Whanganui District', AJHR, 1907, G-1A, pp 1–25

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raised the question of the ownership of the riverbed. This is discussed in part II of the report.

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8.4 MAORI LAND ALIENATIONS FROM 1907 TO 1940

The alienation of Maori land in the Whanganui district has been documented in official records. It appears that much of the land sold directly by Maori in the district was sold to the Crown. A significant proportion of the land sold through or by the Aotea Maori Land Board was, however, sold to private individuals, and this is discussed in the next section. Table 3 gives an outline of Crown land acquisitions from 1907 onwards.

By 1940, the Crown had mostly ceased purchasing Maori land in the Whanganui district, but there were still sporadic purchases in adjacent areas. For example, nearly 5000 acres of the remnant Okahukura block and 800 acres of the Taurewa block were purchased in 1946.³⁵

35. AJHR, 1946, G-9, p 15

CHAPTER 9

CROWN LAND PURCHASE METHODS

9.1 THE ACTIONS OF THE CROWN

A summary report by the Government in 1907 of nationwide Maori land purchases noted that W H Grace had been purchasing land for the Crown from Whanganui Maori.¹ Grace (the son of T S Grace, the original Church Missionary Society missionary to the Taupo area) was a farmer at Galatea, but spent a period from 1906 working for the Government as a land purchase officer. The purchases were being made in accordance with the Maori Land Settlement Act 1905. Gilbert Mair and H D Johnson were also active in purchasing Maori land for the Crown in the Whanganui area at this time.

Grace reported that ‘a great deal of work had to be done to induce Natives to make a start to sell’. He stated that there was considerable Maori opposition to the sale of land but there was support for Maori land boards and for suggestions that their lands should be leased only through these boards. He also found opposition to sales when children were listed as owners. According to Grace, the adult trustees refused to sell the child’s shares because by law the money from the sale had to be

1. See AJHR, 1907, G-3A

paid to the Public Trustee. The trustees told Grace that they should be able to receive the money from the sale.²

Purchases in the Whanganui district were mainly of individual shares.³ Negotiations would be held with individual owners, who were offered money for all or some of their shares in the blocks concerned, allowing the Crown to go to the Native Land Court at some later stage and seek to have its shares in the blocks surveyed out and alienated. For example, Grace did not purchase land during 1909 but, under instructions, petitioned the Native Land Court to partition out Crown shares in several blocks previously purchased. He reported that by May 1908 a total of 164,403 acres in his district, which included the upper Whanganui River, had been so acquired.⁴ Land in the Rangitoto–Tuhua block (to the north of the Whanganui River) was also acquired in this manner during the year.

2. Ibid, p 3

3. Ibid, p 8

4. AJHR, 1909, G-3A, pp 1–3

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It was also common practice for land to be obtained from blocks by Crown agents who had purchased liens from surveyors. Surveyors commonly registered liens over a portion of the block in lieu of their survey costs. Once these were purchased from the surveyor, the Crown agent then arranged for a portion of the block to be cut out to the value of the lien. Some 15,000 acres were thus obtained in the Wellington Native Land Court district (which included the lower Whanganui area) during the period May 1906 to March 1907.⁵

The approach of Crown land purchase agents requires closer investigation to determine whether some of the tactics used in dealing with Maori landowners were appropriate in the circumstances, considering that the Crown was the sole purchaser and thus had a duty to deal fairly and honestly with Maori sellers in accordance with the Treaty of Waitangi. Grace reported, however, that in his dealings he was seeking the best land from Maori at the least price, and his reports indicate that he was acting in what would now be called a ‘sharp’ manner.⁶ For example, in his dealings over land on which valuable forests grew, he advised the Government not to advertise those forests for sale until all such lands in the area (in this case, Rangitoto–Tuhua) had been acquired and not to allow any private dealings (ie, competition). Thus, by the actions of the Crown agent, the Maori sellers were denied the value of the timber on their land and the opportunity of obtaining a true market price.⁷

From official reports, it seems that many areas being offered for sale by Whanganui Maori or targeted for purchase by land purchase agents from 1907 onwards were the last vestiges of the large block purchases of the 1880 to 1890 period.⁸ Maori tended to be left with land of little value to the Crown (and, ultimately, to the owners), being land that was unsuitable for agriculture or that lacked roading or access. Grace referred to this problem in his 1907 report to the Government.⁹ He stated then that Maori were only offering their poorest quality agricultural land for sale. His response to this was to refuse to buy.

In pursuing these purchases and policies, the Crown did not have much regard for the wishes of Whanganui Maori, as expressed, for example, to the Stout–Ngata commission, to retain sufficient lands (ie, lands of sufficient quality and quantity) with which to sustain themselves at the time and into the foreseeable future. However, for individual land purchase agents to take such duties and responsibilities into account would have required them to have been instructed accordingly by the Government. No evidence has been found that the agents were given detailed instructions along these lines. It has been noted earlier, however, that the preamble

5. AJHR, 1909, G-3A, p 3

6. See also Ward, ‘Whanganui ki Maniapoto: Preliminary Report to the Waitangi Tribunal’, report commissioned by the Waitangi Tribunal for Wai 148 and related claims, March 1992, pp 98–107

7. Ibid, pp 4–5

8. For example, see the comments in AJHR, 1909, G-3A, p 1

9. AJHR, 1907, G-3A, p 4

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to the Maori Lands Administration Act 1900 contained a reference to Maori warnings of being left 'landless'. Further research is required to determine whether general statements such as that, and others contained in legislation (eg, the Native Land Act 1873, which gave district officers the power to set aside 50 acres of land per person as an inalienable Maori reserve), were given practical effect in the Crown's land purchasing activities.¹⁰

10. See the report by Thomas Mackay in which he discusses Maori land legislation, AJHR, 1891, G-1A. The Native Land Court Act 1886 Amendment Act 1888 allowed for restrictions on alienation to be lifted by a Native Land Court order, provided, inter alia, that the court was satisfied that the owners of such lands had sufficient remaining land for their maintenance and occupation.

A complicating factor in considering the role of the Crown in the purchasing of Maori land is that there was a desire on the part of many Whanganui Maori to sell. There was certainly a variety of reaction from Whanganui Maori when their views were ascertained by the Stout–Ngata commission. In many cases, Maori owners were ‘unanimous and emphatic’ in urging the Crown to stop purchasing (eg, the owners of the Whakaihuwaka and Taumatamahoe blocks).¹¹ Other owners reacted in the opposite way, urging that their lands be sold and that they be given the power to sell them. Still others, and probably the majority, wanted their lands leased, provided that they retained sufficient land for their immediate needs.¹²

9.2 LANDS ACQUIRED FOR SCENERY PRESERVATION PURPOSES

In 1904–05, a report was prepared by the Scenery Preservation Board (appointed under the Scenery Preservation Act 1903) with respect to lands along the increasingly popular Whanganui River that it felt should be reserved for scenic purposes.¹³ A schedule of lands was drawn up and some 46,500 acres were recommended for preservation in the Whanganui district. Approximately two–thirds of this was still in Maori ownership when the commissioners made their report, and much of this was the last vestiges of large blocks acquired from the Maori owners in the earlier 1870–90 land purchasing period.¹⁴

The Inspector of Scenic Reserves, in his 1910 annual report, stated that there were still large reservations of the lands recommended in the 1908 report to be made on the Whanganui River between Pipiriki and Taumarunui.¹⁵ The report also stated that the surveying of further lands to be reserved was occurring along the river and in the Waimarino, Whakaihuwaka, and Ngaporo blocks. Resistance to the surveys by Maori was of concern, and the surveyor noted that Maori landowners were burning off their lands and planting grass in order to make them unattractive for preservation.¹⁶ This was a desperate way of keeping them from the Crown.

The 1903 Act was consolidated into the Scenery Preservation Act 1908 and was again amended in 1910. In his 1911 report to Parliament, Lands Minister Thomas Mackenzie noted that the Act had been amended in 1910 to allow the Native Secretary to be a member of the Scenery Preservation Board in order to facilitate the acquisition of Maori land. The amendments also included the power to compulsorily

11. AJHR, 1907, G-1A, p 4

12. *Ibid*, p 6

13. See AJHR, 1908, C-6

14. AJHR, 1911, C-6, pp 14–16

15. AJHR, 1910, C-6, p 5

16. *Ibid*

acquire Maori lands for scenery preservation purposes and to prohibit the taking of birds and 'game' in any scenic reserve. Earlier, the Public Works Act 1903 had been used to take appropriate Maori land for scenery preservation purposes.

Many areas of Maori land, particularly between Pipiriki and Wanganui, were compulsorily acquired after 1910 under the Public Works Act and were proclaimed reserve under the Scenery Preservation Act. Some 7700 acres of land were so proclaimed and approximately half was Maori owned.¹⁷ The larger blocks of Maori land recommended to be acquired in the 1908 report of the Scenery Preservation Board were in many cases purchased by the Crown. The methods of purchase were discussed in the previous section.

The scenery preservation programme tapered off in the early 1930s (see table 3). It is estimated from official records that some 5000 acres of Maori land were compulsorily acquired for scenery preservation purposes along the Whanganui River (see table 3). This is not in itself a large amount but it was important land along the river, which had in many cases been reserved or kept from earlier sale and was taken against the express wishes of many of the Maori owners (see the later discussion of protests against the Crown). Further research is required to determine whether the compensation paid by the Crown for these compulsory acquisitions was fair and adequate.

9.3 THE AOTEA MAORI LAND COUNCIL

9.3.1 Establishment and legislative background

The background to the establishment of Maori land boards is outlined in the opening part of this report. The Aotea Maori Land Council first met in Wanganui in 1902 and it had a majority of Maori members. Three locally elected Maori were Takarangi Metekingi, Te Aohau Nikitini, and Waata Hipango. The two appointed members were Ru Reweti and Taraua Marumaruru.¹⁸

Approximately 100,000 acres of land in the Whanganui district were vested in the Aotea Maori Land Council, pursuant to the Maori Lands Administration Act 1900, to be held and administered by the board in trust for the Maori beneficial owners. The Act was amended in 1905, 1907, and 1909, as has been described, and was consolidated in 1931. Almost all the 100,000 acres vested in the board had been

17. See AJHR, 1912, C-6, p 5

18. S Katene, 'The Administration of Maori Land in the Aotea District 1900–1927', MA thesis (history), Victoria University, 1990

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placed there in trust before 1903. Aotea was the only Maori land council to receive significant areas of land under the 1900 Act.¹⁹

19. AJHR, 1907, G-1A, p 12

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Under the Maori Lands Administration Act 1900, Maori were able to submit their lands voluntarily to land councils. The terms of the transfer were specified in an agreement between the relevant council and the owners. The council was then able to lease the lands. Although the terms of the lease was subject to regulations under the Act, there was initially no provision for lessees to receive compensation for improvements on the expiry of their leases. However, in 1903 the regulations were amended to require the councils to pay compensation for any improvements. This amendment significantly altered the conditions under which Whanganui Maori had originally and enthusiastically allowed their lands to be placed under the authority of the land council (see the previous discussion on comments to the Stout–Ngata commission). Significantly, this amendment was challenged in 1920 and at that time the Government validated the measure by passing the Maori Land Claims Adjustment Act 1920.²⁰

Under the Maori Land Settlement Act 1905, Maori land boards succeeded Maori land councils. The 1905 Act gave the Native Minister the power to vest in a Maori land board any land in the Tairāwhiti and Tokerau Maori land districts that the Minister deemed to be unsuitable or not required for Maori use, and this was to be administered for the benefit of the Maori owners. It seems that the intention of this measure was to enable the utilisation of land not being used by Maori. There is consistent comment throughout the later Stout–Ngata commission report that Maori generally lacked the capital to develop their own lands and found it difficult to raise commercial loans on communally-owned land. The 1905 Act empowered the land board to designate any portion of these lands inalienable for the use of the Maori owners or for any other use deemed expedient or to lease these lands for up to 50 years.²¹ The Maori Land Settlement Act Amendment Act 1906 authorised the Crown to vest lands in any Maori land board if the lands had not been kept clear of weeds or if the lands were ‘not properly occupied by the Maori owners but were suitable for Maori settlement’. Thus, the measures in the 1905 Act were extended to apply to all lands, including those within the Aotea district. According to the 1949 commission of inquiry report into Maori land boards, the Government considered that the 1905 and 1906 Acts would free up Maori land for settlement, but when these measures were deemed insufficient, the Stout–Ngata commission was appointed.²²

Maori representation on the boards also changed. Land councils had a minimum of five members, the majority of whom could be Maori. The Maori Land Settlement Act 1905 provided for only one Maori member out of a total of three appointees. The Act was again amended in 1909. In 1913, the boards’ membership provisions changed again when the Native Land Amendment Act was passed, superseding the

20. The 1949 commission of inquiry into the leases (for its report, see AJHR, 1951, G-5, p 15) did not state who challenged the 1903 regulations, and further research would be required to determine this and the specific nature of such a challenge.

21. AJHR, 1951, G-5, p 16

22. Ibid

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1909 Act, removing the requirement for Maori representation. The board had to consist only of a judge and a registrar of the Maori Land Court.

The 57,455-acre Ohutu block (vested by the Maori owners in 1902 and 1903) made up a significant portion of the lands vested with the Aotea council (see fig 6). These lands were offered for lease in 1903 but there was a poor response from potential lessees. The council president, W J Butler (formerly the Crown land purchase officer who managed the Waimarino and other Whanganui block purchases), tried to get the Maori council members to agree to offer leases in perpetuity, which was contrary to the arrangements by which Maori had offered their lands to the land council. However, the Maori members refused to agree to make the lease terms that attractive, because it would effectively alienate the land indefinitely, and Sheridan, the Government's chief Maori land purchase officer, suggested in 1904 that the council should be sacked.²³

23. Katene, p 153

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Evidence presented to the Stout–Ngata commission made it clear that, by 1904, Whanganui Maori were having severe misgivings about allowing their lands to be handled by the Aotea Maori Land Council. Another major grievance of the Maori landowners was that, prior to leasing, the Maori lands were surveyed and roads installed and the cost of this work was charged against future rental income. Thus, it was claimed by the Maori owners that they were subsidising the settlement of Pakeha on their lands.²⁴ The converse of this is that a developer or subdivider should bear the costs of preparing the land for commercial occupation because they will be the major beneficiary and will recover the costs through rents or sales.

The new Aotea Maori Land Board, which met in Wanganui in 1906, was made up of T W Fisher (a Native Land Court judge, who, in 1907, became the Under-Secretary for Native Affairs), Takarangi Metekingi (the only Maori member), and H Lundius (the head of the Department of Lands and Survey).²⁵ Despite the strong misgivings expressed by Whanganui Maori about the new board (see sec 1.2), the Ohutu and other lands were leased. The leases offered for tender clearly stated that they were for a period of 21 years, with a right of renewal for a further 21 years only. At the time, the president of the board (Fisher) assured Pakeha lessees that the leases were in perpetuity and that Maori would have to pay for any improvements if they wanted to resume their lands at the end of the leases. These assurances and other matters involving the leases were the subject of an inquiry in 1949.²⁶

Subsequent to the Stout–Ngata commission, the Native Land Settlement Act 1907 was passed. This Act provided for the vesting of land that the Stout–Ngata commission deemed, after consultation with relevant Maori, that the Maori owners did not require for settlement. This land was to be vested in the appropriate district Maori Land Board, which could, in turn, sell up to half the land and lease the rest. On the expiry of the lease, the lessee was entitled to compensation for improvements from the board. The board established a sinking fund from its rental income in order to pay any compensation required.

24. See AJHR, 1907, G-1A, p 11

25. See Katene, p 101

26. See 'Report of Royal Commission Appointed to Inquire into and Report upon Matters and Questions Relating to Certain Leases of Maori Lands Vested in Maori Land Boards', AJHR, 1951, G-5, pp 21–22. The report noted that, failing the first offer of leases in the Ohutu blocks, the Aotea Maori Land Board made a second offer at the end of 1904. By this time, the regulations under the Maori Land Act 1900 had been altered (in 1903), allowing the tenants to receive the value of permanent improvements if Maori wished to resume their land at the end of the lease period. The commission felt that Fisher's assurances were not legally correct but were based on the presumption that Maori would be unable to pay for improvements at the expiry of the leases and would therefore be forced to grant renewals indefinitely, thereby effectively ensuring the leases were in perpetuity.

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The Native Land Act 1909 established a new Native Land Purchase Board, in response to growing pressure from settlers and politicians to resume Crown land purchases. The restrictions on alienation contained in the Maori Lands Administration Act 1900 were absent from the Native Land Act and lands could be alienated either by the agreement of small groups of owners or by the agreement of a meeting of owners (known as the meeting of owners procedure).²⁷ Although the land board had to approve each alienation, the overall effect of this Act was to ensure that Maori land could be more easily alienated. The Act made it clear that leases from land boards were to provide for compensation to be paid to lessees, should the Maori owners wish to resume their land on the expiry of the lease.

The 1909 legislation and the Government's concern to utilise as much unused Maori land in as short a time as possible were the subject of the following comment by T W Fisher (then the Under-Secretary for Native Affairs) in 1911:

The Act of 1909 is, no doubt, the contributing factor; and when all its provisions are more universally known, and the parties concerned take the necessary initial steps, the cry of 'unoccupied Native lands' will be a thing of the past. At the present rate of progress it may be assumed that after eight years there will be little, if any, Native land that is not revenue-producing.²⁸

Fisher had noted earlier in his report that it was the surveying of Maori land that was holding back large areas from being leased or sold for settlement. At that time the land was being 'settled' mainly by Pakeha and it was to be a further 15 years before Ngata began to supervise the utilisation of Maori land for Maori farmers.

27. See Tom Bennion, 'The Aotea Maori Land Board and Scenery Preservation', report commissioned by the Waitangi Tribunal (Wai 167 ROD, doc A49(f)), p 7

28. AJHR, 1911, G-9, p 3. Fisher may have been referring to both leased and alienated lands. The fact is, however, that most land in either category was being utilised by Pakeha farmers.

9.3.2 Land sales activity of the Aotea Maori Land Board

Without further detailed research it is not possible to locate the sales of land within the Aotea Maori Land Board's area, which included Taranaki and lands to the south of the Whanganui River and to the west of the Ruahine and Tararua Ranges. Therefore, the sales figures for the Whanganui area have not been isolated, and the gross figures for the sale of Maori land can only indicate a pattern of land loss by Maori of the Whanganui district. There are four categories of concern to this report. They are as follows:

- (a) lands vested in the board under condition that they were not to be sold;
- (b) lands sold directly by Maori owners and, as required by the Native Land Act 1909, approved by the board;
- (c) lands dealt with under Part XVIII of the Native Land Act by the board, whereby Maori allowed the board to sell the land to the Crown; or,
- (d) lands dealt with under Part XVIII of the 1909 Act by the board, whereby Maori allowed the board to sell the land to private individuals.

There were no significant sales of Maori land by the Aotea Maori Land Board until 1912, when 7590 acres were sold by the owners and approved by the board, 1133 acres were sold by the board to the Crown, and 1639 acres were sold by the board to private individuals.²⁹ Without further detailed investigation, it is not possible to identify lands within the Whanganui district from the published data on land sales by the board.

29. AJHR, 1912, G-9, p 4

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Sales of Maori freehold land (ie, land that had been processed by the Native Land Court) in the board's district peaked in the 1918–19 year, when some 77,000 acres were sold: 12,609 acres were sold by the owners and confirmed by the board; 56,541 acres were sold to the Crown; and 8471 acres were sold to private individuals.³⁰ During the 1917–18 and 1919–20 years, some 40,000 and 30,000 acres of Maori land were sold by or via the board.³¹

Some of the land vested in the Aotea Maori Land Board was also sold. Further information is required to determine whether the permission of the owners was required or obtained for these sales. There appear to be two major sales of vested land by the board, one in the 1912–13 year, when 3093 acres was sold, and a sale of 3583 acres in the 1914–15 year.³²

By March 1920, the total area of Maori freehold land sold with the board's approval was 126,025 acres. The board had sold a further 107,724 acres to the Crown and 42,690 acres to private individuals.³³ By 1927, the amount of Maori freehold land sold by the owners was 161,766 acres, while the board had sold 118,550 acres to the Crown and 66,923 acres to private individuals.³⁴

The reporting of Maori land board transactions changed after 1930, as did the total areas dealt with by the boards (as has been discussed). The Aotea Maori Land Board is recorded as selling very little land (some 13,000 acres) in the period 1932 to 1946, but the leasing of land continued at a similar level to previous years. It is clear from table 3 that Crown purchases of land also fell away over this time. This decline began, according to Butterworth and Young, when Coates wound up the Native Department's land purchasing activities. Instead, he pursued a policy of title reform, attempting to put Maori in a situation where they could farm their own lands.³⁵ This new direction for the Department was reinforced when Ngata became the Native Minister in December 1928 (at the fall of the Reform Government, which was replaced by the United Party, of which Ngata was a member). The head of the Native Department from 1922 to November 1933 was R N Jones and, according to Butterworth and Young, he was a strong supporter of this new direction and of Ngata.³⁶

Katene presents data that shows a declining area under lease from the Aotea Maori Land Board between 1912 and 1921, but an increase in sales by the board. He shows that nearly half these sales (accounting for nearly 150,000 acres) occurred in the three years following the end of World War I (1918–21), when farm development schemes were set up by the Government so that returned soldiers could take up

30. AJHR, 1912, G-9, pp 1–8

31. AJHR, 1918, G-9; 1920, G-9

32. AJHR, 1913, G-9, p 4; 1915, G-9, p 6

33. AJHR, 1920, G-9

34. AJHR, 1927, G-9

35. G V Butterworth and H R Young, *Maori Affairs*, Wellington, Iwi Transition Agency, 1990, p 72

36. *Ibid*, p 73

farming.³⁷ According to Tom Bennion, there was a steady and significant flow of land out of Maori hands through the '10-owners procedure' from 1912 onwards.³⁸

9.4 THE 1949 COMMISSION OF INQUIRY INTO MAORI LAND BOARDS

9.4.1 Payment by lessees for improvements

A number of 21-year leases from the Aotea board were to expire in 1949–50, and it was obvious then that the board was unable to compensate the lessees as required. The Maori owners were likely to receive no benefit from the arrangement, particularly if the lessee were allowed to stay on the land, rent-free, in order to be reimbursed for the improvements – an arrangement provided for in legislation passed after Maori had vested their lands with the board. In 1949, this situation prompted the Government to commission D J DalGLISH, H M Christie, and R Ormsby to inquire into Maori land boards.³⁹ The commission's terms of reference required it to:

- (a) Inquire and report on whether there should be any modification in the existing law or the terms of the leases and if so, details of those recommendations;
- (b) Determine what types of improvement should qualify for compensation;
- (c) What methods should be used to determine the value of compensation; and
- (d) Whether Maori land boards should be given additional powers to deal with the liability for compensation.

37. Katene, pp 304, 310

38. See Bennion, pp 7–9. Section 361 of the Native Land Act 1909 established a dedicated Native Land Purchase Board and a dual system of alienation by either small groups of owners or a 'meeting of owners procedure'. Where there were fewer than 10 owners, Maori land could be sold as if it were general land, subject to the sale being approved by the district Maori land board. The board had to be satisfied that no person would be made landless by the sale and that the sale was fair (ss 207, 209, 217–220). After 1912, in determining whether the block had 10 or fewer owners, the descendants of a deceased Maori were counted as one person until succession orders had been made (s 8 Native Land Amendment Act 1912). Where there were more than 10 owners of a block, any person with an interest could apply for a meeting of owners to be called. The Native Minister could then direct the land board to call a meeting of owners, which was chaired by the president of the board (a Government servant). The meeting would consider an offer from the Crown to purchase the land or agree to a private sale (s 346). The attendance of those who had not succeeded to land was restricted. A decision to sell was made when those who voted to sell had a greater cumulative shareholding than those voting not to sell (s 343). Meetings of owners were not ruled invalid merely because some owners had not received notice of the meeting. The land board had to approve each alienation, but had to be satisfied only that no owner would be made 'landless' by the sale (s 349).

39. See 'Report of Royal Commission Appointed to Inquire into and Report upon Matters and Questions Relating to Certain Leases of Maori Lands Vested in Maori Land Boards', AJHR, 1951, G-5

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The commission reported in April 1950.

Further research is required to determine whether the leases offered by Maori land boards and the parent Acts were justified and regular in a legal sense, and whether the Crown was in breach of Treaty principles in providing for the virtual alienation of Maori land through these leases and the compensation clauses within them.

The lease arrangements disadvantaged not only the Maori landowners but also the lessees, in that the land boards did not put aside sufficient funds from the rental income for the purchase of improvements. Further investigation may determine whether this situation arose through an inadequacy in the legislation and regulations and whether it was deliberate or due to incompetence or factors beyond the control of the Government.

THE LEGISLATION: MAORI LAND ACTS FROM 1900

10.1 THE 1949 COMMISSION

10.1.1 Commission's views on legislation

In 1900, when the legislation was framed, there was considerable pressure from settler interests for lessees to be able to freehold their land rather than having to vacate it at the termination of the lease period.¹ The legislation could be seen as a compromise between Maori pressure to retain their lands, while obtaining some benefit from it, and settlers intent on obtaining as much Maori land as possible. In referring to the various amendments to the legislation between 1900 and 1906, the 1949 commission of inquiry into Maori land boards commented:

While departing from the principle of voluntary vesting [in the 1900 Act] the Legislature appears in the important cases to have adopted the principle that Maoris should not be permanently deprived of their land.²

The commission's evidence for this statement was that:

- there was a legislative restriction on granting perpetual leases over Maori land (the Maori Land Claims Adjustment and Laws Amendment Act 1904), except

1. AJHR, 1951, G-5, pp 21–24

2. Ibid, p 17

where the Governor was satisfied the land could not be disposed of by a shorter term lease; and

- the leases could not be granted for more than 50 years.

In the Whanganui case, the majority of leases were for 42 years because the Maori owners fully intended to resume their lands at the end of the period.³

In referring to the changes in legislation affecting representation, the commission said that the legislation was ‘a departure from one of the conditions which existed at the time of the voluntary vesting of lands in the Aotea District Maori Land Board’.⁴

3. Ibid, p 22

4. Ibid, p 19

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The commission was also given evidence that, despite the tenants taking up Whanganui lands and signing 21-year leases, they began immediately to lobby the Government to have their leases changed and to be allowed to freehold the blocks or obtain perpetual rights of renewal.⁵ A parliamentary committee sat in 1911 to consider petitions made by lessees of land within the Ohutu block. Over a period of years, the lessees sent deputations to ask for an amendment to the law. According to the commission's report, Whanganui Maori owners 'strenuously opposed' any suggestion that perpetual rights of renewal or freehold title be granted. It was also recorded that, in 1936, draft legislation was prepared on behalf of the lessees and taken to a meeting of Maori owners called by the Aotea board. The meeting rejected the lessee's suggestions.⁶

10.1.2 Other matters

Two other matters were brought to the attention of the commission. Maori landowners were critical of the trusteeship of the Aotea board in properly administering the leases. For example, it was claimed that some lessees were not complying with the covenants on their leases and that leased lands were not being inspected to determine whether this was the case.⁷ Another matter of concern to the commission was that lessees in the Whanganui area were cutting forest on their land and selling the timber just prior to the expiry of the lease. In both cases, the commission made recommendations in favour of the Maori landowners.⁸ Interestingly, they did not support submissions from Maori land board lawyers for the costs of the inquiry to be borne by the Government, and it appears that the costs were borne by the land boards and therefore, in reality, by the Maori owners.⁹

5. AJHR, 1951, G-5, p 22

6. Ibid

7. Ibid, p 77

8. Ibid, p 78

9. Ibid, p 81

10.1.3 The commission's recommendations

The commission presented options to the Government and recommended that, where the Maori owners wished to resume their lands following the expiry of the lease, they would have to pay in cash the full value of improvements. Alternatively, where the owners wanted their land back, the board could offer the lessees the option of either a cash payment for two-thirds of the value of the improvements or continuing to farm the land for a further period of 15 years and then being paid the two-thirds value. Where the board could not afford the compensation or the owners did not want to resume their lands, it was recommended that the board be able to lease the land for a further 21 years, with perpetual rights of renewal, subject to the owners wishing to resume their land at the end of each 21-year period, when they would have to pay for the improvements.¹⁰

10. Ibid, p 84

As a result of the commission's report, the Maori Vested Lands Administration Act 1954 was passed. This Act provided for the Maori Trustee (who had replaced and taken over the responsibilities of Maori land boards) to lease the lands concerned for 21-year periods, subject to the right of the trustee to resume the land if compensation of two-thirds of the value of the improvements was paid. The Maori Trustee had only limited funds, but from the late 1950s, land was resumed.¹¹ For example, in 1959, 1000 acres of the Ohorea Station, located near Raetihi, was resumed, and in 1960 a further 2921 acres at Ohorea was resumed.¹²

10.2 THE TREATY OF WAITANGI AND THE AOTEA MAORI LAND BOARD

The 1949 commission of inquiry does not appear to have adequately addressed the apparent injustices that it identified, and nowhere in its report was there an analysis of the actions of the Crown in relation to the Treaty of Waitangi. This is not surprising, because the Treaty barely featured in any of the inquiries conducted in those times. This inquiry seemed to be based on a legal interpretation of events, tempered with a judgement on whether actions were fair.

Whanganui Maori welcomed the 1900 legislation because it allowed them to engage the expertise of a council, comprised mainly of elected Maori, to manage their lands in their best interests. However, within two years of Maori enthusiastically vesting their lands in the Aotea Maori Land Council, the Crown had changed the rules to the detriment of Maori. Although the leases were limited to a maximum of 50 years and there were restrictions on perpetual leasing, the imposition of the compensation provisions effectively made it impossible for Maori to resume their lands at the end of the lease period. This situation was anticipated at the time by Government officials, who claimed before the commission that the 21-year leases were effectively perpetual in that the Aotea board would not be able to provide adequate compensation to the lessees for their improvements.¹³

Further consideration should be given to the role of the Aotea board (and other Maori land boards) in the approving of Maori land alienations. The Treaty gave the Crown the right (obligation) of pre-emption over Maori land. Arising out of that fact are a number of questions that require further study:

- Was the Crown able to set aside its pre-emptive right or was it obliged to maintain it despite Maori agreement?
- On what Treaty basis did the Crown allow Maori to deal with the alienation of their own lands (either by selling or leasing them)?

11. AJHR, 1958, G-9, pp 28–29

12. AJHR, 1959, G-9; 1960, G-9, p 24

13. AJHR, 1960, G-9, p 22

- Was the Aotea Maori Land Board acting as an agent of the Crown when it approved of land alienations in its area?
- Did the board have the right under the Treaty to sell land vested in it by Maori, whether or not they agreed to the sale?

10.3 THE WAIMARINO PURCHASE GRIEVANCES

Protest at land loss by Whanganui hapu did not start in 1907. Te Rangihwinui had been a major focus of opposition to land sales prior to 1907. Despite nationwide attempts by the Crown to rectify major grievances in the early 1900s (see earlier discussion), Whanganui Maori continued to present to the Government some of their claims that had arisen during the purchases of the 1880s and 1890s. One example is the Waimarino purchase, which is the subject of grievances currently before the Waitangi Tribunal (see claims Wai 48 and Wai 167 in chapter 16).

In 1911, Chief Judge Jones of the Native Land Court held an inquiry into allegations that Kahu Karewao and others had made in a petition to Parliament.¹⁴ The petition alleged that mistakes had been made by the Crown in allocating reserves for Maori in the Waimarino block. Apparently, kainga of the petitioners (Ngati Hinewai and Ngati Whata) had been wrongly located in a reserve awarded to another hapu (Ngati Tu Kaiora).

Jones made recommendations to rectify the matter as best as possible so long after the sale. The recommendations were given effect in section 28(4) of the Native Land Claims Adjustment Act 1910. Because no titles had been issued for any of these reserves, the Native Land Court was empowered to issue orders vesting a portion of the lands under claim in the appropriate persons.¹⁵

In 1914, Rangi Whakahoutu and eight others petitioned Parliament claiming that their land, known as the Kirikiriroa block, was wrongly included in the boundaries of the Waimarino block and was purchased by the Crown and should be returned to them.¹⁶ The committee suggested that this petition be referred to the Government for an inquiry. On 27 August 1914, T W Fisher, the Under-Secretary of Native Affairs, reported on the petition to the Native Affairs Committee, stating that the Kirikiriroa reserve then formed part of the lands vested in the Wanganui River Trust Domain Board and that there was no record of an obligation to return the land to Maori. He returned the petition to the chairman. Three years later, on 2 November 1917, one of the petitioners wrote to the Native Minister, Herries, seeking a response to the petition from the Government. Herries replied, enclosing a copy of the under-

14. Petition 732/1910, AJHR, 1911, G-14A, pp 1–2

15. Section 18 of the Native Land Claims Adjustment Act 1911

16. AJHR, 1914, I-3, p 8

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secretary's earlier report, and stated that in view of that report no further action had been taken.¹⁷

In 1919, two further petitions relating to the Waimarino block were considered by the Maori Affairs Committee of Parliament. Both related to problems created following the Crown's purchase of the block. Petition 208 of 1917 from Puna Hohepa and others asked for a reallocation of shares in the Waimarino 3K block.¹⁸ Petition 90 of 1917 from Hohepa Kawana and 19 others asked that they be granted land within the block, because they claimed to be landless.¹⁹ The committee declined to make recommendations on these two petitions.

17. P O'Sullivan, submission to the Waitangi Tribunal, Wai 167

18. AJHR, 1919, I-3, p 11

19. Ibid, p 8

In 1922, Te Huia Pikikotuku and 34 others petitioned Parliament seeking payment for sections of their land in the town of Taumarunui that were taken under the Public Works Act for recreational, scholastic, and other purposes. This was referred to the Government by the committee.²⁰ Paraone Ropiha and nine others petitioned to be awarded a portion of the Waimarino block in 1923,²¹ and another petition, from Ata Tamihana, Turoa Kupa, and one other (petition 118/22), sought an investigation into the sale of the Waimarino and Raetihi blocks. A parliamentary paper was prepared on this petition.²² Inia Ranginui and seven others claimed to have been omitted as owners of Oruarangi Island in the Crown purchase of the Waimarino block.²³

The Maori Affairs Committee declined to make recommendations on the Ropiha and Ranginui petitions. However, the Tamihana and Kupa petition was investigated by the Native Land Court on 15 May 1923. The court found that the petitioners had been ‘wrongfully’ excluded from the Waimarino and Raetihi blocks, but because several partitions and sales of the lands had since occurred, the other owners would be required to accept ‘adjustments’. Chief Judge Jones recommended that Parliament pass legislation empowering the court to make such variations to existing orders as were deemed necessary in the Waimarino and Raetihi blocks.²⁴ The Maori landowners had to pay for a mistake made by the court and no compensation was payable.

At least six petitions were made to Parliament between 1923 and 1928 regarding land sales within the Crown-owned Waimarino block. A large portion of the block was set aside as a State forest in 1924.²⁵

In 1920, a petition from Kuku Haweti claimed that he had been excluded from the owners of the Ohutu block and requested that the court now include him. An inquiry was held, and although the petition was found to be correct, the chief judge’s report to Parliament recommended that Haweti be accommodated as an owner in the block, ‘but so that no such order or amendment shall prejudice . . . any right or interest acquired in good faith’.²⁶ Many of the Ohutu blocks had earlier been leased through the Aotea District Maori Land Board. It was clear that the court had erred but the petitioner and other owners in the block were not compensated.

20. Petition 338/22, AJHR, 1924, I-3, p 12

21. Petition 93/23/II, AJHR, 1924, I-3, p 14

22. Parliamentary paper 187/24, AJHR, 1924, I-3, p 17

23. Petition 19/24, AJHR, 1924, I-3, p 28

24. See ‘Native Land Amendment and Native Land Claims Adjustment Act, 1922’, AJHR, 1924, G-6G

25. M Laurensen, ‘The Crown’s Acquisition of the Waimarino Block’, report commissioned by the Waitangi Tribunal, 1993, p 21

26. Petition 219/20, AJHR, 1920, I-3, p 31

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It was in 1922 that the Crown again addressed a grievance held by Te Kere and his whanau over the Native Land Court's 1886 exclusion of them from the owners of the Waimarino block. Te Kere was a Pai Marire prophet and the leader of a number of Whanganui hapu. He had died in 1901. A number of owners led by Te Kere had been omitted from the title because they had refused to participate in the court process. Te Kere had attended the Native Land Court sitting at Pungaharuru but the judge ruled that he should be excluded from the ownership of the Waimarino block because he had resided only temporarily on land within the block. In 1901, Sheridan, then a Government land purchase officer, had visited Te Kere at Tawhata on the Whanganui River, where Te Kere and a number of his followers lived. Sheridan offered to reserve 1500 acres from the Crown purchase of the Waimarino block for Te Kere and his followers in settlement of their grievance.²⁷ Subsequently, section 8 of the Maori Land Claims Adjustment and Laws Amendment Act 1904 restored some 1492 acres of land in the Waimarino block (the Tawhata block) to Te Kere's whanau.²⁸

Another land sale to merit a petition to Parliament from disgruntled Maori was the Whakapapa sale. Henare Pikaahu and 25 others called on the Crown to return the Whakapapa block in their petition of 1923.²⁹ The Native Affairs Committee made no recommendation on this petition.

10.4 SCENERY PRESERVATION PURPOSES: COMPULSORY ACQUISITION GRIEVANCES

In 1914, three petitions from Whanganui Maori came before the Maori Affairs Select Committee. All three were referred by the committee to the Government for 'favourable consideration'.³⁰ Petition 306 from Waata Hipango and 406 others asked for an investigation into their lands, which were taken for scenery preservation purposes. Petition 471 from T W Haeretuterangi and 196 others also asked for relief for the taking of their lands along the Whanganui River for scenery preservation purposes. Significantly, the third petition, number 472 from Eruera Hurutara and nine others of Pipiriki, asked that their papakainga, Te Aomarama, which was taken for scenery preservation purposes, be returned.³¹

27. Laurenson, p 92

28. Ibid

29. Petition 118/23, AJHR, 1924, I-3, p 44

30. AJHR, 1914, I-3, p 17

31. Ibid

Further research would be required to determine what action, if any, the Government took on these claims and the recommendations of the Maori Affairs Committee. A search of the closed files is required, because there is no information contained in the *Appendices to the Journals of the House of Representatives*. However, the Wanganui River Reserves Commission was established in 1916 by the Government, 'at the desire of the natives to investigate and report on Wanganui River reserves'. The commission was chaired by T Duncan, and members included Phillips-Turner and Hikaka Takirau of Oeo (Taranaki).³² The commission apparently viewed all the reserves on the Whanganui River, met many Maori, and took evidence. The minutes contain evidence from Hare Pukehika of Pungarehu; Aohau Nikitini of Parakino; H Lundius (a Crown lands ranger); W A Veitch and Cummings (from the Wanganui River Trust); A S Burgess of Hatrick and Company (the operators of the river steamer service); Hope Gibbons (from the Wanganui Scenic and Beautifying Society); Henare Pumipi; Te Moana te Tauri; Rau Kanapa (the handwriting of the commission secretary is hard to read, and this name may not be correct); Tika Paaka and Ngaita Tukia (this name is also unclear) of Putiki; and Alick Takarangi (the son of Ngaita Tukia).

The Pakeha witnesses firmly requested that no reserves be altered and that, if anything, the reserves be extended. The Maori owners were generally not opposed to scenery protection and the Crown designating non-productive cliffs or other areas along the river for scenery preservation purposes, as long as they had access to their farm land behind. But, according to their statements, the Crown had taken good farm land, much in excess of what was needed for scenic purposes, had cut off access in several cases, had taken burial caves and other wahi tapu and cultivation areas, and had failed to consult with Maori owners. It was also stated by Hare Pukehika, who claimed he had the authority to speak for Whanganui people, that Pakeha lands of scenic value had not been taken and that the Crown had failed to stop Pakeha settlers clearing their bush but had prevented Maori from doing so. The Maori owners asked that their productive lands be returned and that fair compensation be paid for the land taken, and in some cases they offered alternative areas for scenery protection purposes.³³

The report of the commission contained proposals to amend the boundaries of many reserves and stated, 'if the recommendations are carried out the objections raised by the Natives will be largely removed'.³⁴

Further detailed research would be required to identify all the grievances that arose over land sales and acquisitions of land from Whanganui Maori in this period. This part of the report has presented only some of the petitions but it is clear that

32. See the note in AJHR, 1917, C-6, p 2. Handwritten minutes of some of the evidence taken by the commission are contained in a notebook at the National Archives (LS/1/79) with an attached note stating that the commission report and recommendations were not published in the AJHR.

33. See the handwritten minutes taken by the secretary of the commission (NA, LS/1/79)

34. AJHR, 1917, C-6, p 2

Whanganui Maori made numerous verbal representations to members of Parliament and other Government officials over land loss in their district.

10.5 THE PUTIKI HUI

In 1927, a major hui was held at Putiki in the Whanganui district. It was run by the Young Maori Party in association with the Maori Lawn Tennis Association. It was seen by the organisers as an opportunity to bring Maori together to discuss new lines of communication and the welfare and progress of Maori generally. The previous year, a hui had been held in similar circumstances and it had also served as a focus for a discussion by Maori of their economic, social, and political progress.

In their report of the Putiki hui, Apirana Ngata and Maui Pomare noted that in their speeches they had emphasised the importance of such meetings, which tended to 'break down tribal barriers and promote healthy, social, and intellectual intercourse between young leaders of the various tribes' and to encourage what they claimed was a trend of 'Europeanization in the home life and surroundings' of Maori women, 'so that the Pakeha ideal of "home" is being gradually realised in the Maori villages'. It was reported that:

with the loss of the greater part of their landed inheritance, the increase in population, the increased cost of living, the raised standard of life and the weakening of the protective elements of the old time communism, the Maoris of today were feeling the economic pressure with progressive severity . . . Much of the pioneering work in the backblocks – bush felling, fencing, road making, shearing, draining and stumping, and such like – had been done and was still being done by the Maoris . . . The younger Maoris were reacting to the already complicated Maori-land problem and were demanding individualisation, consolidation, readjustment of occupation conditions, and financial assistance. Their attitude towards the balance of their landed inheritance was much the same as that of Europeans towards the unoccupied Crown lands and the large estates of the Dominion.³⁵

35. See AJHR, 1928, G-8, pp 1–5

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The report claimed that in their attitude towards moral and religious problems, Maori were demanding:

more allowance for his racial peculiarities and a deeper appreciation by the Pakeha missionary of the Ngakau Maori, the Maori heart . . . In short, the time is at an end when the Maori will be satisfied merely to ape the pakeha.

The report ended on an optimistic note by stating that Maori knew enough of Pakeha ways to:

see that the end aimed at may be reached by other paths, even the old tracks, with less raising of dust, less bustle and wasteful hurry and unhappiness.

Prime Minister Coates sent a memorandum to the hui, and it was read by his private secretary, Balneavis. Coates exhorted Maori to consider the utilisation of their lands and suggested they raise loans against them for development. His speech, although offering sound advice, was somewhat patronising and paternalistic, warning Maori to ignore:

movements having as their objective the wholesale collection of money from the misguided ones among you, aided by rosy promises of high rates of interest and financial assistance with which to farm their lands.

Rather, he advised Maori to take out loans only where land titles were perfect and only with State lending institutions and, if they had money to invest, to invest it only with a State-run bank.³⁶

The Putiki hui passed several recommendations calling on the Government to provide more support to Maori in many areas, including education, health, the settlement of grievances, and arts and crafts. Of particular note was the resolution expressing appreciation for the Government's efforts at resolving historical grievances (confiscated lands and early land sales) by establishing commissions of inquiry.

36. Ibid, p 3

CHAPTER 11

THE STATUS OF WHANGANUI MAORI IN 1930

11.1 LAND AND LAND PURCHASING

By 1930, Whanganui Maori were in a rather depressed state. The Maori population in the rural part of the district had declined considerably (although nationally the Maori population was on the rise), while much of their land had been sold. The struggle with the Crown over rights to the Whanganui River was becoming more intense (see part II of this report), and a severe depression in world trade and commodity prices hung over the country.

The combination of Crown land purchasing, land sales through and by the Aotea Maori Land Board, and the taking of land for scenery preservation purposes over the period 1907 to 1930 had severely reduced Maori land holdings in the district. The three maps of Maori land ownership in the district graphically demonstrate the trend (see figs 7–9). Without a very detailed investigation, a precise figure cannot be put on Maori land holdings as at 1930. However, a broad consideration of the figures and calculations from maps shows the following:

- There were about 500,000 acres remaining to Whanganui Maori (including remnants of the Waimarino block) in 1907 (see table 2 for the major blocks).
- Sales of Maori land to the Crown, sales by and through the Aotea board, and acquisitions for scenery preservation purposes amounted to at least 250,000 acres.
- Maori were left with approximately 250,000 acres (this figure excludes the Taurewa and Rangitoto–Tuhua lands).
- This figure (250,000 acres) represents about 15 percent of the roughly 1.7 million acres owned by Whanganui Maori in 1840. Similarly, Maori land remaining in the Rangahaua Whanui Whanganui district was approximately 15 to 20 percent of the original 1.2 million acres (see fig 7).

The ownership of land in 1930 was scattered. After years of sales, partitions, and succession, some Whanganui hapu (particularly in the Waimarino and Wanganui areas) were virtually landless, while others, particularly in the central area of the district between the Whanganui and Wangaehu Rivers south of Ohakune, still retained significant areas of land.

11.2 THE POPULATION

The Maori population of the district had continued to decline, continuing the trend evident in 1907. The 1911 census showed that the Maori population in the Waimarino, Wanganui, and Waitotara Counties had declined by 309 from the 1906 census figure of 1858.¹ Interestingly, the census official, reporting on his travels in the region, noted that there had been opposition to his questions. The Maori people were suspicious that he was trying to find out if there were further lands that might be taken by the Government, 'but as their lands are more or less invested in the [Aotea] Maori Land Board some of them have very little areas of land to farm'.²

In 1917, there was another census of the Maori population, which confirmed the declining population: the combined population of the Waimarino, Wanganui, and Waitotara Counties was 1549. This had dropped to 1440 by 1921.³ The Maori population of Wanganui town did not increase markedly over this period as may have been expected – it was about 100 or 200. It appears, therefore, that either rural Whanganui Maori moved away from the area altogether; the birthrate declined; or the death rate increased. Possibly all these factors were at work. Further investigation, particularly of the official Health Department records, would be of value in providing further insights into the Whanganui Maori population.

From around 1930, though, the Maori population began to increase. This followed a national trend which had begun several years earlier. The 1936 census records the Maori population of the district as being about 2100 and records an increase for Wanganui town.⁴ The population has continued to rise ever since. Pool has ascribed this increase to both an increase in the fertility rate of Maori and a decrease in the mortality rate, following a lessening of the epidemics that were seen earlier in the new century.⁵

1. AJHR, 1911, H-14A, p 18

2. Ibid

3. AJHR, 1921, H-39A

4. *Population Census 1936, Maori Census*, Wellington, Census and Statistics Department, 1940

5. I Pool, *Te Iwi Maori: A New Zealand Population Past, Present and Projected*, Auckland, Auckland University Press, 1991, pp 109–111

11.3 THE POLITICAL CONDITIONS

There had been significant changes on the national political scene, and the fruits of these changes were highlighted at the Putiki hui discussed earlier. In 1906, the Native Department had been reorganised under James Carroll. It had earlier been merged with the Justice Department in 1892. The new department was better resourced to carry out the large-scale purchasing and leasing of Maori lands required of it and to implement the Liberal Government's promised policy of financial assistance to Maori.⁶ Under Carroll's patronage, three new members of Parliament were elected: Te Rangihiroa (Northern Maori), Maui Pomare (Western Maori), and Apirana Ngata (Eastern Maori).⁷

6. G V Butterworth and H R Young, *Maori Affairs*, Wellington, Iwi Transition Agency, 1990, p 63

7. *Ibid*, p 64

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According to some commentators, the Maori Land Act 1909, with its emphasis on land development and its provisions for meetings of owners to deal with their own land, allowed Maori to exercise rangatiratanga for the first time, as provided for in the Treaty of Waitangi.⁸ However, a more cynical perspective would be that the Government and the Act had paved the way for easy access by land-hungry settlers to relieve rather naive Maori landowners of their lands. In the Whanganui district, these remaining lands were in some cases the last vestiges of lands sold in the major Crown land purchase period of the 1870s and 1880s. The results of the Act on Whanganui Maori have already been discussed.

From 1919, the Ratana movement began to grow and assume political dimensions. The leaders of the movement emphasised Maori rights under the Treaty of Waitangi and showed hostility towards established Maori leaders.⁹ The Young Maori Party came to the fore during the period 1900 to 1920. Towards the end of the 1920s, Ngata emerged as Carroll's successor, and using funds collected from Maori land boards by the Native Trustee (established by the Native Trustee Act 1920) and rents from Maori leased lands, he began a scheme of lending to Maori farmers for farm development. From March 1921 to December 1928, Gordon Coates was Native Minister. Under his stewardship, a number of outstanding Maori grievances were addressed. The ownership of the Rotorua and Taupo lakes was settled and trust boards were established to distribute compensation moneys. The confiscations of Taranaki and Waikato lands during the 1860s was also investigated and settlement talks begun. Coates also accorded Ngata a prominent role in Maori Affairs, making him chairman of the Native Affairs Committee of Parliament and appointing him to head a commission to oversee consolidation work on Maori lands.¹⁰

The political agenda as regards Maori was therefore set in 1930 to advance Maori development. The development was to be based on land utilisation, but the real question was whether Maori had been left with sufficient good quality land to use for this. The Maori population of rural Whanganui, which up to the 1920s had been in decline, had begun to increase by 1930, and there was a need to accommodate this expanding population in various ways – politically, socially, economically, and culturally.

8. See, for example, Butterworth and Young, p 65

9. Ibid, p 70

10. Ibid, p 72

CHAPTER 12

MAORI LAND DEVELOPMENT SCHEMES

12.1 UTILISATION OF MAORI LANDS

The Native Minister, Sir Apirana Ngata, stated in 1931 that the time was right for an initiative to enable the better utilisation of Maori lands. He believed that Maori social and economic development depended largely on Maori utilising their land. The difficulties caused by land being held in communal title were, however, considerable. For example, up to 1926, Maori land could not be advanced as security for loan money unless title were complete and all liabilities discharged.¹ Ngata claimed that the consolidation of titles was ‘the most effective and enduring method as a solution to Native land difficulties’, but it was too slow and expensive and he wanted to use ‘a more speedy and elastic method which would promote [the] settlement of desirable areas pending the permanent adjustment of titles’.²

Section 8 of the Native Land Act 1926 was an attempt to cope with these problems. The Act allowed Maori land boards to make loans to Maori farmers for the improvement of Maori freehold land, and the loans then became charges against the land. The development process was further enhanced in 1929 by allowing State funds to be used for the development of land owned and occupied by Maori. The land was first designated a ‘development scheme’ under the Act, which prevented

1. AJHR, 1931, G-10, p 4

2. Consolidation schemes were devised by Ngata, while he was a member of the Coates Government, in an attempt to overhaul Maori land titles so that Maori farmers could have their interests consolidated into usable blocks. By 1928, there were thousands of acres of fragmented land blocks, owned by hundreds of owners, following years of partition and individualisation of title. Whanau had ties to particular pieces of land but were asked to give up interests in some of their lands in order to obtain title to economic, manageable blocks for farming. Some whanau were asked to leave ancestral lands to relocate to farm their new land. Ngata recruited Maori to act as consolidation officers in 1928 and he became Minister of Native Affairs in December 1928. He sponsored legislation in 1929, 1930, and 1931 to strengthen his powers for Maori land development and consolidation schemes to run in parallel.

the owners from interfering with the development work or from alienating any land within the scheme.³

12.2 THE DEVELOPMENT SCHEMES

Ngata believed that it was necessary first 'to obtain undisputed control of such an area'. The land was developed using cheap labour and the most promising workers were eligible to be selected by Government officers to take over the farming of a

3. See 'Native Land Development Schemes', AJHR, 1931, G-10, pp 5-6

particular block. Maori men experienced in farming were often brought from other districts to take up farms within the scheme area and develop ‘a spirit of friendly rivalry and emulation’.⁴

By 31 August 1931, Ngata and the Government had approved and were supporting 41 Maori land development schemes. There was one scheme in the Whanganui area at Ranana. The Ranana scheme was undertaken on lands of several hapu and some consolidation of titles took place. Most of the land was from the Morikau block and the total area of 4500 acres was vested in the Aotea Maori Land Board. The scheme also included reserves set aside from the board’s Morikau farm ‘for the use and occupation of the inhabitants of the Hiruharama and Ranana native villages’. The Ranana development was initially handicapped by the lack of roading access and the only transport was via the Whanganui River. However, in 1932–33 a road was put through from Wanganui to Pipiriki, thereby opening up access.⁵

By 1932, Ngata reported to Parliament that the world depression of the 1930s was having a damaging effect on the schemes. The schemes were being provided with subsidised labour and were also over budget.⁶ However, in a 1938 report on the activities of the Aotea Maori land district by the Department of Native Affairs, it was noted that:

It will be seen that the advantages of placing their [Maori] lands under the State’s control are now becoming more widely known and appreciated, and, judging by the numerous inquiries and applications made, there is ample room for further development . . . the total number of State development schemes in the Aotea district [is] twelve, covering an area of 27,709 acres.⁷

4. AJHR, 1931, G-10, p 24

5. AJHR, 1932, G-10, p 48

6. Ibid

7. AJHR, 1938, G-10, p 66

The Ranana scheme continued to operate and, by 1938, was reported to include a number of dairy and sheep units, involving 28 ‘settlers’ and 114 labourers supporting a total of 563 persons.⁸

12.3 LONG-TERM RESULTS OF THE SCHEMES

For many years, the schemes were a success in that Maori were employed in farming development. But in the 1950s and 1960s, small dairy units became economically marginal, large farms taking over because of economies of scale. The Department of Maori Affairs was forced to lease out the Ranana land because it was falling further into debt. The scheme had not been divided into individual farms, as had occurred on other Crown-run development schemes, and the block was farmed only for sheep, the earlier dairy farm developments having been abandoned. Thus, the earlier promise that the land would be used to settle Maori farmers on productive units had not been borne out.

The Crown is presently negotiating with the owners of the Ranana land with a view to returning the land to them.

8. Ibid

CHAPTER 13

IMPLICATIONS OF CROWN LAND PURCHASE ACTIVITIES

The major period of Maori land purchases in the Whanganui district occurred between 1880 and 1890 and has been dealt with in part I. Following a lull in Crown land acquisition activity in the late 1890s, Whanganui Maori were subjected to further land losses after the recommendations of the Stout–Ngata commission were released, despite the stated objectives and recommendations of that commission.

The activities of the Aotea Maori Land Board were central to this renewed land alienation activity. Maori initially placed some faith in the Government's proposals to establish land councils, because they largely fitted in with what Whanganui Maori had been demanding. Maori were attracted to the Crown's proposals that land councils act as their trustees, providing that the land was leased and the economic benefit returned to the owners. However, the activities of the councils (and, later, the boards), their predominantly Pakeha membership, and their ability to acquire Maori land compulsorily and to hold title and sell it became contentious issues and raise questions about the Crown's Treaty obligations.

Whanganui Maori made various objections to the operations of the Aotea board. A commission of inquiry into land boards was undertaken in 1949 and a number of Maori criticisms were supported by the commission. Currently, these and other

aspects of the operation of Maori land boards are being investigated by a researcher for the Waitangi Tribunal, and a report identifying issues for further detailed research is due in 1996.¹

Other land dealing practices of the Crown that were common in this district were also common throughout the country. These practices included:

- The purchase by Crown agents of shares in land blocks from individual Maori owners and the later translation of those shares through the Native Land Court into the ownership of a particular part of the block. The part acquired was often the best agricultural land, which could then be on-sold to private individuals (settlers).
- The purchase by Crown agents of survey liens from private surveyors. These were later presented to the Native Land Court with a demand for a particular portion of the surveyed land block to be cut out and awarded to the Crown to the value of, and in settlement of, the lien.
- The operation of the Native Land Court. Certain Whanganui Maori, particularly followers of the Kingitanga or Pai Marire movements, refused to recognise the operation of the court. Despite their opposition, lands in which they held an interest were taken before the court by others who wished to sell. Those who did not attend the hearing could, and in several cases did, lose their land (see the previous discussion and the grievances set out in the petitions of Te Kere and others). The court could make an order with an attached list of owners that excluded the non-attendees. This practice created grievances that were still being addressed in the 1920s and are today the subject of claims to the Waitangi Tribunal.

1. Dr Don Loveridge is writing a report on Maori land boards for the Rangahaua Whanui Series (national theme K).

Implications of Crown Land Purchase Activities

Evidence from reports by the various Crown land purchase agents in this district and from subsequent Maori complaints indicates that land purchase agents engaged in sharp practices. Closer investigation is required to determine whether these practices breached any Treaty principles and, if they did, the extent of those breaches. Some of these matters have been examined by the Waitangi Tribunal in the *Pouakani Report 1993*.² For example, the Tribunal found ‘plenty of evidence that tribal leaders wanted to avoid the worst problems created by land dealing’ by keeping the Native Land Court away from their land and administering it themselves.³ The Tribunal also expressly commented on the cost to Maori owners both of having their land surveyed and passed through the Maori Land Court and of the litigation that inevitably followed.⁴ Further analysis is required to determine the relevance of the Tribunal’s findings in the Pouakani case to the Crown’s activities in the Whanganui district. One analysis by the Stout–Ngata commission found that the cost of surveying and subdividing particular blocks in the district amounted to about one-third of the price received for the land.⁵

At the same time as the Aotea Maori Land Board began operating, tourism began to expand rapidly, centred on steamer trips along the Whanganui River. In 1905, in order to preserve what was left of the forest that was visible from the river, the Government began a scheme of acquisition of those lands. Some of the lands were compulsorily acquired after 1911.

The operation of schemes for the compulsory acquisition of Maori land has been studied by the Waitangi Tribunal in the *Te Maunga Railways Land Report*.⁶

A significant portion of the land along the river that was still held in 1907 by Whanganui Maori was owned by non-sellers or was used to live on (this land was known as papakainga land). The land had been retained during the major sales in the 1880s, but some 46,000 acres fell into the ‘scenic’ category and were acquired by the Crown. Although some of these acquisitions were strenuously resisted (in some instances, owners burnt down the forest on their land), by 1920, much of the land of scenic value, including in some cases wahi tapu, mahinga kai, former kainga, and potentially productive farm land, had been acquired.

2. Waitangi Tribunal, *Pouakani Report 1993*, Wellington, Brooker’s Ltd, 1993

3. Ibid, p 307

4. Ibid, p 243

5. See AJHR, 1907, G-1A, p 10

6. Waitangi Tribunal, *Te Maunga Railways Land Report*, Wellington, Brooker’s Ltd, 1994. On the question of the compulsory acquisition of Maori land by the Crown for public works, the Tribunal concluded at p 81 that:

We do not suggest that Maori land should never be used for public purposes, but we emphasise that the compulsory acquisition of Maori land by the Crown cuts right across the guarantee of tino rangatiratanga in article 2 of the Treaty . . . we do not believe that the Crown needs to acquire the freehold in order to carry out public works on any land . . . There are numerous other examples of leasehold tenure of land used for public purposes.

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Following the alienation of their land, rural Whanganui Maori relocated to farm development blocks, moved to larger towns in the district, or left the district altogether. It is probable that significant numbers of Whanganui Maori would have moved away anyway to take advantage of work opportunities in towns and cities throughout the country. However, the 1950 royal commission of inquiry into the Whanganui River was told by a member of Ngati Poumoana that many of the younger men were forced to leave their homes because there was no living for them left along the river.⁷

The key issue is not, however, whether Whanganui Maori would have left their ancestral lands in any case. The issues to address here are:

- the extent to which Whanganui Maori were able to retain sufficient land and resources with which to sustain themselves at that time and into the future; and
- the Crown's role in the loss of those lands and other resources and its duties and obligations under the Treaty of Waitangi.

An important factor to also take into account is that in many cases Maori were willing to sell their land, despite knowing that very little was left. Inherent in this consideration is the relationship between group and individual rights. Rangatiratanga could not operate effectively when land titles had been individualised and individuals targeted for their shares in particular land blocks. This occurred up to the 1920s. Alan Ward has suggested that this matter, in particular as it related to the late nineteenth century, requires close consideration by the Waitangi Tribunal.⁸

Running in parallel with the Crown's acquisition of land in the district, particularly along the river, was a concerted campaign by the Crown to take away Maori control and ownership of the Whanganui River (see ch 14).

In 1848, immediately after the very early sales, Whanganui Maori began protesting and petitioning Parliament over the way their land was being taken. They also strenuously objected to the Crown's increasing activity along their river. The protestations and petitions were largely ignored by successive governments, but Maori opposition and action continued, culminating in the 1994 Waitangi Tribunal hearing of Wai 167 – the Whanganui River claim (see sec 16.1.8).

7. AJHR, 1950, G-2, p 15

8. Ward, 'Whanganui ki Maniapoto: Preliminary Report to the Waitangi Tribunal', report commissioned by the Waitangi Tribunal for Wai 148 and related claims, March 1992, p 119

CHAPTER 14

THE STRUGGLE FOR CONTROL OF THE WHANGANUI RIVER

14.1 INTRODUCTION

A brief description of the alienation of the Whanganui River is presented here. The reason for brevity is that Wai 167, the main Whanganui River claim, has now been heard by the Waitangi Tribunal and the Tribunal is in the process of preparing its report and recommendations.

When all that has been said and written about the ownership of the river is considered, there is clear evidence that Whanganui Maori have never considered that they have relinquished their tino rangatiratanga over their river (including the bed and banks, the adjacent forests, the water birds, and the fishery), as guaranteed by the Treaty of Waitangi.

14.2 THE EVENTS LEADING TO THE CROWN'S ASSUMPTION OF OWNERSHIP OF THE WHANGANUI RIVER

A report on the Whanganui River claim was compiled in 1990 by historian R J Young for the Ministry of Maori Affairs.¹ This summarised account is drawn largely from that report and supplemented, where necessary, by other sources. Young notes that the questions relating to the ownership of the river began with the purchase of the Whanganui block by Donald McLean in 1848. Although Pakeha used the river, up to the mid 1860s, it was as guests of the Maori owners.²

In 1866, the Native Land Court began sittings to determine the ownership of lands along the river and above the McLean purchase. Questions have been raised about

1. R J Young, 'Wanganui River Claim and Related Issues, Manatu Maori 1990', report commissioned by the Waitangi Tribunal (Wai 167 ROD, doc A47)
2. See Young, p 3

whether or not Maori sellers knew that, according to English common law, in selling their land beside the river, they were also selling the riverbed out to the middle.³

3. See, for example, F Sinclair's evidence (Wai 167 ROD, doc C10), particularly pp 56–60

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In 1877, the Government district officer reported on a meeting of Maori at Putiki (near Whanganui) in August of that year, where concern was expressed by participants about the effects of Wanganui Harbour Board regulations on their rights to bush, rivers, and sea.⁴ The activities of Keepa Te Rangihwinui in organising Maori in the district to oppose further land sales in 1880 focused Maori opposition to Pakeha use of the river. A barrier was placed on the river at Puketapu in order to prevent passage upriver for gold prospecting and access to the Tangarakau River coal beds.⁵

In 1880, the Government began plans to clear eel weirs and natural snags to enable steam boats to travel the river.⁶ In September 1880, Te Rangihwinui established the boundaries of the land trust, although, according to reports, the Government began immediately to undermine it (see sec 5.1).⁷ In November 1880, the Whanganui River was declared closed to Pakeha without a pass signed by Te Rangihwinui.

In 1882, the Wanganui County Council began taking gravel from the river for road construction. In 1884, it was reported that gold had been found at Tuhua (coal was already known to exist at Tangarakau).⁸

Confirmation that Maori still considered the river theirs is to be found at a meeting held at Ranana in 1885. There, Whanganui Maori met with Ballance (then the member of Parliament for Wanganui) and are reported to have agreed to allow steamers to travel on the river.⁹

A report in the *Wanganui Chronicle* of 20 December 1886 noted that work was being done on the river removing snags – presumably at the behest of the Government. It seems that both Maori and the Government, or its agents, assumed that they had rights to the river, but Whanganui Maori were becoming increasingly concerned that the Crown was assuming too much. In 1886, Paora Tutaawha petitioned Parliament complaining of ‘fisheries and weirs being destroyed by steamers’ on the river.¹⁰ The Native Affairs Committee recommended to Parliament that the matter be referred to the Government for consideration. Eel weirs along the river do not seem to have been a contentious matter until around 1885. Prior to this, however, there were many conflicts on the adjacent Waitotara and Patea Rivers over eel weirs, which were obstructing the passage of boats. In 1891, Ballance met a deputation of Pakeha interests regarding the Waitotara eel weirs, and he is recorded

4. Young, p 3

5. ‘Reports from Officers in Native Districts’, AJHR, 1880, G-4

6. G Smart and A Bates, *The Wanganui Story*, Wanganui, 1972, p 243

7. See Young, p 4

8. Young, p 5

9. AJHR, 1885, G-1, pp 1–10

10. AJHR, 1887, I-3, p 8

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as stating, ‘the natives had certain rights under the Treaty of Waitangi and . . . the best way of getting rid of obstructive weirs would be by negotiation with their native owners’.¹¹

In 1888, Werahiko Aterea and 162 others petitioned Parliament asking that the deepening of the Whanganui riverbed by Government agents be stopped.¹² The chairman of the Native Affairs Committee reported to Parliament that, as the deepening work had stopped, the committee had no recommendation to make on the matter.

11. *Wanganui Chronicle*, 30 May 1891, cited in Young, p 8

12. AJHR, 1888, I-3, p 5

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In 1890, a regular steamer service started on the Whanganui River between Whanganui and Pipiriki. The clearance of snags became a regular exercise. In 1891, the Whanganui River Trust Board was established under the River Boards Act 1884. There appears to have been no consultation with Whanganui Maori over the establishment of the board or its proposed functions.¹³ In Parliament, James Carroll, the member for Eastern Maori, insisted that recognition be given in the Act to Maori rights. Thus, sections were inserted in the Act to provide that the Act did not affect any Maori rights under the Treaty of Waitangi.¹⁴

The board, which was charged with removing obstructions to navigation on the river and preserving scenery along the river, first met in January 1892. Perhaps in part as a reaction to the Crown's moves, which effectively strengthened its authority over a resource that Whanganui Maori considered as their own, however, the Maori spokesman, Te Kere (an important tohunga and close confidant of Topia Turoa), declared on 1 February 1892, during an altercation with photographers from Whanganui, that 'the Queen's highway ends at Pipiriki'.¹⁵ It should be noted that by 1890 the Crown had acquired the vast bulk of Whanganui Maori land, often in controversial circumstances, and feelings of resentment about this, together with claims of wrongdoing, were regularly being expressed against the Crown by Whanganui Maori.

In 1892, the Crown continued to press Te Rangihwinui to agree to remove the eel weirs, which were obstructing steamers on the river.¹⁶ The Crown's legal authority over the river was further strengthened in 1892, to the disadvantage of rangatiratanga, by the passage of the Whanganui River Trust Amendment Act, which allowed the board to levy tolls on cargo – including that carried by canoes if they were being towed by steamers.¹⁷ The passing of the Whanganui River Trust Act Amendment Act 1893, which gave the board the power to authorise the removal of gravel and sand from the river, further entrenched the Crown's legal authority. The Act provided for compensation to be paid to relevant Maori if they applied to the Native Land Court.¹⁸ With the Crown's enhanced authority came the Maori reaction, which was to actively prevent the clearance of river snags and eel weirs and the removal of gravel without prior payment.¹⁹

13. See, for example, the record of proceedings of the 1950 royal commission, p E1

14. NZPD, vol 74, 3 September 1891, pp 218–219

15. See Young, p 10

16. *Ibid*, p 11

17. *Ibid*

18. *Ibid*, p 12

19. See the *Whanganui Chronicle*, January–February 1893, cited in Young

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The Prime Minister (Seddon) and the Native Affairs Minister (James Carroll) visited various parts of the Whanganui district as part of their North Island tour in 1894. They met with Topia Turoa and Te Kere in March at Tieke. A full description of the tour is contained in official records.²⁰ According to the official report of the tour in the *New Zealand Mail*, the question of Whanganui Maori obstructing the river was raised.²¹ Seddon's approach was to lecture those present at the Tieke meeting to the effect that the Government would not tolerate Maori taking the law into their own hands.²²

Another major petition was made to Parliament in 1895 by Meraina Rauangina and 151 other Whanganui Maori women, pleading that Maori rights on the Whanganui River not be interfered with.²³ The Native Affairs Committee discussed the matter and recommended that the Native Minister be sent to settle the dispute. It is not clear whether the Minister did visit Whanganui Maori, but in November 1895, Seddon visited Whanganui and met Te Rangihwinui and Turoa at Pipiriki.²⁴

Whanganui Maori opposition to Crown encroachment took various forms and continued through the 1890s, despite attempts by the Prime Minister, members of the board, and others to placate it.²⁵ By 1901, payment was being made to some Maori for gravel extraction from the river. Permission had also been granted to the river board to remove or modify certain rapids and eel weirs to facilitate the passage of steamers.²⁶

In 1902, the question arose as to whether owning land on both sides of the river entitled the owner to the ownership of the riverbed. This would be the situation under English common law (the *ad medium filum* rule). The question arose at a Native Land Court hearing on the sale of the Ohotu block, which lay on both sides of the river.²⁷ The Crown was quick to move to contain the possibility of Maori ownership of the riverbed by passing the Coal-mines Act Amendment Act 1903, section 14 of which gave the ownership of navigable rivers to the Crown. This measure reinforced the Crown's legal rights to the bed of the Whanganui and the beds of most other rivers. However, Maori claims for compensation for gravel extraction continued. In 1907, for example, Haoni Metekingi claimed compensation through the Native Land Court.²⁸

20. See AJHR, 1895, G-1, pp 1–108

21. *Ibid*

22. AJHR, 1895, G-1, p 8

23. Petition 126, AJHR, 1895, I-3, p 15

24. AJHR, 1896, C-1, p 115

25. Young, p 13

26. See Tom Bennion, 'Whanganui River Report', report commissioned by the Waitangi Tribunal, 1994 (Wai 167 ROD, doc A49), pp 87–88

27. Young, p 14

28. *Ibid*

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In 1913, a departmental committee looking into the Whanganui River steamer contract proposed to divert water from Lake Rotoaira into the Whanganui River to increase its flow. Such a scheme would be used to increase river flows to facilitate the passage of steamers.²⁹

29. Ibid

Whanganui Maori protests further increased when the Crown took significant amounts of their remaining lands along the banks of the Whanganui River for ‘scenery preservation purposes’. In 1914, three petitions were presented to Parliament regarding land along the Whanganui River taken for scenery preservation purposes (see sec 10.4).³⁰ In 1917 and 1918, there was a debate over the Whanganui River Trust Board’s legal right to grant permission to anyone to take gravel from the riverbed. By 1918, the potential of the river to generate hydropower was recognised and the board was asked for permission to commence feasibility studies. In 1920, the *Whanganui Chronicle* was running stories about the electricity generating potential of the river.³¹ In the same year, the legality of rights to take gravel were clarified to the satisfaction of the Crown. Despite Maori protests, Parliament passed the Whanganui River Trust Amendment Act, which entitled the trust to all the gravel in the river.³² The trust was then able to impose a royalty on the gravel extracted.

In 1927, Te Pikikotuku and 125 others from Taumarunui filed a petition seeking compensation from the Crown for the loss of Maori rights to the Whanganui River and a share in the steamer service profits and the revenue from the sale of trout licences issued for the river, in part to offset the claimed loss of the native fish resources. Their petition was prepared in the years immediately after a 1921 agreement on the ownership of, and fishing rights in, the Rotorua lakes, and it came only a year after a similar agreement on Lake Taupo had been reached between the Crown and Ngati Tuwharetoa. That agreement was signed by the parties in 1926 and had been widely debated and publicised. Opposition to the Crown’s assumed ownership of the Whanganui River was endorsed at the time of the 1927 Te Pikikotuku petition by the member of Parliament A T Ngata, and an inquiry was begun into the ownership of the river. However, Titi Tihu, representing Whanganui hapu, initiated court proceedings over the ownership of the river. The hearings began in the Native Land Court in 1938.³³

14.3 COURT PROCEEDINGS

14.3.1 The 1938 Native Land Court hearing

The case began before Judge Browne and was to be argued in two parts. First, it was agreed between counsel to investigate who owned the river at the time of the signing of the Treaty of Waitangi. The decision, given in 1939, was in favour of the claimants. Browne ruled that under Maori custom and usage they were the owners of the river in 1840. He also held that hapu who owned land along the banks had

30. See AJHR, 1914, I-3, p 17

31. Young, p 15

32. Ibid, pp 15–16

33. Ibid, p 17

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exclusive rights to construct eel weirs in the adjoining river and to exercise rights over them.

14.3.2 The 1944 Maori Appellate Court hearing

The next stage of the court investigation was to determine the ownership at the time of the claim (1938). The Crown, however, lodged an appeal with the Maori Appellate Court against the 1939 Native Land Court decision and took delaying tactics.³⁴ There were also delays due to the demands of World War II, and the case did not proceed until 1944.

In 1944, Titi Tihu and Hikaia Amohia objected to a campaign against eel weirs waged by the Taumarunui Rod and Gun Club. In December 1944, a full bench of six judges of the Appellate Court upheld Browne's 1938 decision. In the meantime, the Wanganui River Trust Board was abolished by legislation and its assets and role were taken over by the Department of Lands and Survey.

14.3.3 The 1947 Supreme Court hearing

34. Young, p 18

In 1947, three years after the Appellate Court ruling, Titi Tihu began proceedings in the Native Land Court to have it determine the ownership of the riverbed in 1938. However, the Crown appealed the Appellate Court's decision to the Supreme Court and obtained a writ preventing the Maori Land Court (as the Native Land Court was now known) from proceeding with the investigation of title to the riverbed. This action was taken in somewhat of a panic, for the Crown seemed intent on ignoring Maori rights in order to obtain sole rights to this riverbed, which would then set a precedent. There is evidence that the Government thought there was a possibility that the beds of all major rivers could be claimed by Maori.³⁵

The Supreme Court case was held in 1949, and the outcome went against Maori interests. Judge Hay ruled that the *ad medium filum* doctrine applied, whereby once Maori had sold the land along the river they had also sold their rights to the adjacent bed.³⁶

This outcome did not end the matter and Whanganui Maori continued to press for a recognition of their rights to the river, holding a meeting with senior Government Ministers at Parliament on 11 October 1949.³⁷ The notes of the meeting suggest that they called for a royal commission of inquiry to be held into the ownership of the riverbed, and that the Government readily agreed.

14.3.4 The 1950 royal commission of inquiry

Whanganui hapu were obviously not concerned at the further delays such an inquiry would cause, and a royal commission of inquiry was set up under Sir Harold Johnston in 1950. Johnston found that:

- Whanganui hapu did own the river in 1840;
- the claim to the river was not dependent on the *ad medium filum* rule, and was also independent of the control exercised (through legislation) by the Wanganui River Trust Board;
- the Crown did not own all navigable waters – only tidal waters, which, in the Whanganui case, meant the riverbed up to Raorikia;

35. Young, p 17

36. Ibid

37. Bennion, p 129

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- Maori did not suffer economic loss as a result of losing their eel weirs, because most Maori no longer depended on fishing from the river at the time that the weirs were cleared; and
- Maori were entitled to compensation for the gravel removed from their riverbed.³⁸

14.3.5 The 1952 Court of Appeal hearing

The Crown, perhaps predictably, did not accept the findings of the commission and legislated (s 36 Maori Purposes Act 1951 – a procedural Act) to have the matter referred to the Court of Appeal, which in turn referred some questions about the *ad medium filum* rule back to the Maori Appellate Court.³⁹

The Court of Appeal was required by the legislation to determine two issues:

- whether Maori held any rights in the riverbed prior to the passing of the Coal Mines Amendment Act 1903; and
- to whom did these rights belong if they existed.⁴⁰

The Crown presented evidence to show that either:

- the river was a public highway over which Maori had had fishing and domestic water use rights only and that the Crown owned the bed after acquiring sovereignty through the signing of the Treaty of Waitangi in 1840; or
- the *ad medium filum* rule applied.

Although the court agreed with earlier findings that Maori owned the riverbed in 1840, they sought more evidence from the Maori Land Court as to the application of the *ad medium filum* rule. The court also noted that in previous instances the Crown had argued the opposite case with respect to the rule.⁴¹ For example, in the Rotorua

38. See the full details in AJHR, 1950, G-2, pp 1–20

39. See Bennion, p 134, where he states that there was no consultation with Whanganui Maori over this legislation. See also [1955] NZLR 459.

40. Bennion, p 134

41. Ibid, p 136

lakes case, because most of the land surrounding the lakes had remained in the ownership of the Rotorua hapu, the Crown argued that the rule not apply.

The court also rejected the Crown contention that the Wanganui River Trust Act 1891 overrode Maori customary rights to the riverbed. Some of the comments made by the court went quite some way to indicating that it felt the Maori case was strong, particularly as eel weirs could be owned by persons some distance from the site, and that the weirs often extended across the mid-point in the flow. It was stated that the *ad medium filum* rule could not merely be assumed to apply without a careful consideration of the particular case, and the court suggested that it had real doubts as to its application in this case, citing *King v Joyce* in asserting this.⁴²

14.3.6 The 1958 Maori Appellate Court hearing

After being referred to the Appellate Court by more legislation, the case was heard in June 1958. New evidence was introduced into the case. This was material from Maori Land Court cases, where rights over riverbeds and eel weirs was in contention or might apply in determining land block titles.

42. Bennion, pp 137–138. Bennion notes that in *King v Joyce* (1905) 25 NZLR 78 it was suggested that, if Maori retained fishing rights in any sale, the *ad medium filum* rule might be rebutted. This would apply even more so where title to only one bank of the river was being determined by the Maori Land Court.

According to Bennion, the Whanganui Maori case was poorly put and none of the judges had presided at the earlier 1944 Appellate Court hearing on the issue.⁴³ The case ended in three days, with the judgment rejecting the Maori arguments. Essentially, the court found that the *ad medium filum* rule did apply and that, in selling their land on either side of the river, Whanganui hapu had sold their riverbed.

14.3.7 The 1958 Court of Appeal hearing

In late 1958, the Court of Appeal resumed its deliberations on the matter, taking into account the Appellate Court's rulings. In 1962, a decision was produced.⁴⁴ Essentially, the Court of Appeal ruled against Maori. It found that there had never been separate rights under Maori custom to the whole length of the Whanganui riverbed and each land block carried with it the rights to the adjacent riverbed to the centre of the river.⁴⁵

14.4 CONTINUING PROTEST AND ACTION

Protests continued, despite the Court of Appeal's ruling. During the 1960s, the Tongariro power scheme was built. This involved, in part, a diversion of the flow of the upper Whanganui River (the Whakapapa River) into Lake Rotoaira, to be used for power generation. The scheme, as it affected the Whanganui, was strenuously opposed by Whanganui hapu led by Hikaia Amohia and others. For example, in 1968 at a meeting called by the Government to discuss the scheme, Hikaia Amohia was told he was out of order with his interjections.⁴⁶

In 1975, Titi Tihu began preparing a petition to the Minister of Maori Affairs stating that the river was sacred and that Whanganui Maori wanted title to the river. The petition was presented to the Queen's private secretary in Wellington during the royal visit of 1977. The petition ended up being dealt with by the New Zealand Government and was referred to the Maori Affairs Select Committee. The committee suggested a solution that would have seen some form of spiritual ownership vested in Whanganui Maori, while the Crown retained material rights.⁴⁷ The Government took no action on this recommendation.

Against the backdrop of continuing efforts during the 1970s and 1980s to have their rights to the river recognised, Whanganui Maori were mindful of continuing expressions of interest in the river from the Ministry of Energy, which sought it for hydropower generation. There was also another Crown initiative, which threatened

43. Ibid, p 139

44. See Young, p 18

45. Ibid

46. Ibid

47. Ibid, p 19

to add another layer of Crown authority over the river. That was the proposal to make the river, the adjacent scenic reserve, and any suitable Crown lands in the area (much of which was subject to claims by Whanganui Maori for the way in which it had been acquired by the Crown) into a national park.

14.5 WHANGANUI NATIONAL PARK CREATED

A paper prepared for Cabinet by the Minister of Lands and Maori Affairs (K T Wetere) in 1985 proposed that a national park be established.⁴⁸ The paper indicated that the park would be of benefit to Whanganui Maori because it would create jobs and allow them to ‘establish viable commercial activities’. The paper also suggested that the ‘claim of the Maori people should be linked to the possible establishment of the national park’ and that:

there should be representation of the Maori people on the Wellington National Parks and Reserves Board. The Maori people wanted three representatives from their tribe, but only one could be supported.

In discussions over the establishment of the park, Whanganui hapu representatives demanded that compensation be paid for the extraction of gravel from their river, as was recommended by the 1950 royal commission. Wetere suggested that the Crown agree to the creation of a Maori trust board, which would ‘also have some advantages’, and recommended that:

- (i) recognition of the traditional rights of the Maori people is included in the legislation that will be necessary to tie in the recreational uses of the waters of the river with the Wanganui River National Park – any such recognition to be subject to broad agreement being reached in advance with the Maori people;

48. Ibid, appendix

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- (iv) title in the commonly used sense is not transferred to the Maori people;
- (v) traditional Maori fishing rights on the river are preserved.⁴⁹

As a result of these Crown moves, a national park was established. Only one Whanganui Maori representative was appointed to the board. Agreement on the claim was not reached, but the Whanganui River Maori Trust Board was established and a report was prepared for it and the Crown on the amount of gravel that had been extracted from the river. For many years, local authorities had paid the Whanganui River Trust (and later the Department of Lands and Survey) a royalty on the gravel extracted. The report stated that, depending on how it was valued, the gravel extracted would have been worth between \$8 million and \$20 million as at 1988.⁵⁰

49. Ibid

50. See 'Report on Gravel Extraction, 1903–1988', Beca Carter Hollings and Ferner–Berl (Wai 167 ROD, doc A31)

SUMMARY AND CONCLUSIONS

Hapu of the Whanganui district have suffered considerable losses as a result of Crown actions relating to the ownership of the river. The river was a source of life and sustenance to the Whanganui hapu – life in its holistic sense – which includes not only the fish, the birds, and the transport, but also the spiritual dimensions. Had Whanganui Maori retained their mana and rangatiratanga over the river, Pakeha use of it and the resources it holds would not have become the problem they are now. Whanganui Maori would have been able to lease lands along the river for scenic purposes; obtain royalties for the use of gravel for roading and construction purposes; impose rents for the use of the river for tourism, power generation, and commercial fishing; and use the river themselves as an economic base from which to develop tourism, commercial and recreational fishing, hydropower, irrigation, and a host of other enterprises, which would have sustained the hapu in the past and into the future.

A resolution to the more than 100-year-old dispute may lie in the Lake Taupo model settlement reached between the Crown and Ngati Tuwharetoa in 1994.¹ In the Taupo settlement, the ownership of the bed of the lake was returned to Ngati Tuwharetoa, and they and the Crown have formed a joint lake management structure for the lake and its surrounding reserves. Revenue from resource use can be shared.

In the Whanganui case, the river and much of the land now designated as a national park were alienated from the Whanganui hapu in most distressing circumstances. The numerous wahi tapu along the river have also been compromised by clearing activities on the river and by the discharge of sewage and other pollution into the river. That the Crown has spent many years and an inestimable amount of money in thwarting Whanganui Maori ownership claims to the river and adjacent lands appears to be a waste of efforts and funds, which would have been better spent on investigating a partnership agreement under the Treaty of Waitangi. In particular, to be effective, the principle of partnership requires the partners to work together with the utmost good faith. The tactics used by the Crown in dealing with Whanganui hapu along the river can only be described as devious.

In the 1990s, the Government began preliminary discussions on the claims with Whanganui Maori representatives. At the same time, the Whanganui River Maori Trust Board lodged its claim to the river with the Waitangi Tribunal.

1. See Brian Bargh, *The Volcanic Plateau*, Wellington, Waitangi Tribunal Rangahaua Whanui Series: Working Paper (First Release), December 1995

Although the costs have been extremely high for Whanganui hapu, they have maintained their claims to the river and adjacent land, of which they claim to have been wrongly deprived. The Waitangi Tribunal is now preparing its report on the claims and the recommendations in that report should pave the way for a settlement of this grievance.

CHAPTER 16

SUMMARY OF CLAIMS IN THE WHANGANUI DISTRICT

16.1 THE CLAIMS

There are 12 main claims to the Waitangi Tribunal relating to the Whanganui district. Many of them are included in the Whanganui River Maori Trust Board's overarching claim to the Whanganui River and adjacent lands (Wai 167). A number of the claims concern blocks of land taken from individual hapu for the North Island main trunk railway. The claims are listed here in the order that they were registered with the Tribunal.

16.1.1 Wai 37: Ngati Rakeipoho–Hikairo-okahukura lands

Wai 37 is centred on an area to the north of the Whanganui district, but relates closely to the loss of land as a result of land purchases for the main trunk railway. The claimants maintain that they have been prejudiced by Crown actions in purchasing land for the railway in that they did not wish to sell, nor to have their land made subject to the Native Land Act and the Native Land Court. However, the Crown acquired large areas of land within the Rohe Potae in opposition to the wishes of Maori landowners. One such area acquired was the Taurewa block, which is under claim. It is also claimed that the gift of Mount Tongariro to the Crown by Te Heuheu Tukino was wrong because consent was never given. Certain other lands, it is also claimed, were wrongly taken by the Crown under the Public Works Act.

16.1.2 Wai 48: Tamaupoko iwi – Waimarino block

Tamaupoko iwi claim to have been prejudicially affected by the taking of part of the Waimarino block for railway purposes. It is claimed that the amount of land taken was excessive and that parts of the land were not used for the railway but were incorporated into the Tongariro National Park and used to build a prison on.

16.1.3 Wai 50: Rangitoto–Tuhua lands

Wai 50 concerns land known as the Rangitoto–Tuhua 55A block of 288 acres in the Taumarunui–Okahukura area to the north of the Whanganui district. The land was taken in the early 1900s by the Crown in satisfaction of a mortgage charge made against the land for an earlier survey. It is claimed that the owners never consented to the survey and therefore no charges should have been levied against the land and the Crown had no right to take the land.

16.1.4 Wai 73: Waimarino block

The owners of the Waimarino 4B2 block of about 804 acres claim to have been prejudicially affected by the taking of parts of the block by the Crown in 1955.

According to the claimants, a large part of the block was taken for scenic and defence purposes but was not used as such and should have been given back to the former owners.

16.1.5 Wai 81: Ruapehu – Tamaupoko

The claimants represent Tamaupoko of the upper Whanganui, and claim that Mount Ruapehu should never have been given to the Crown by Te Heuheu Tukino because it was not his to give. It is claimed that there are wahi tapu on the mountain that are an accepted part of Tamaupoko ownership. The claim also states that other areas, now part of the national park, were also wrongly taken and should be returned.

16.1.6 Wai 146: North Island main trunk railway lands

Wai 146 is made on behalf of Tamaupoko, Hine Ngakau, Ngati Tupoho, and Ngati Rangi/Ngati Maniapoto and states that land taken for railway purposes in the Whanganui district was wrongly taken. They also claim that the 100-acre Sunshine railway reserve near Taumarunui was wrongly taken by the Crown and that the Waimarino block was purchased from people who were not the owners.

16.1.7 Wai 151: Rangipo–Waiu lands

Descendants of Rangituhia, Rangiteauria, and Uenukumanawawiri claim to have had some 12,000 acres of land wrongly taken from them by the Crown in 1939 under the Public Works Act 1928. The lands in the Rangipo–Waiu block were taken for defence and reserve purposes.

It is claimed that the Waiouru reserve of 475 acres was acquired under the Education Act, but is now part of the Waiouru township and that lands in the present Karioi State Forest and areas of the Murimotu, Rakatepauma, and Motukawa blocks were also wrongly taken, mainly for defence purposes. The claimants also say that

Summary of Claims in the Whanganui District

the lands of the Tongariro National Park were Ngati Rangi tribal lands and were wrongly taken.

16.1.8 Wai 167: Whanganui River and adjacent lands

Wai 167 is the main claim by the combined hapu of the Whanganui River both to the ownership of the river and against the Crown for the wrongful acquisition of lands, by various means, along the river. The claim has been brought by the Whanganui River Maori Trust Board, which represents the descendants of Hinengakau, Tama Upoko, and Tupoho.

It is stated that the claimants have never relinquished their rights over the river, its fisheries, and other taonga associated with it, including the land. They claim to have been alienated from their lands, waters, and spiritual heritage and to have been denied access to their customary food and material resources, which are necessary for their economic and social development. It is also claimed that they have been denied participation in local and central government, except as individuals in a minority. It is alleged that the Crown has extracted gravel from the river without the right to do so and that the river has been polluted and water diverted from it without authority, and compensation is claimed.

This claim also involves the Taurakira block on the Whanganui River. The claimants maintain that, when the block was purchased by the Crown, some 3½ acres were set aside as a school site and given to the Crown for a school. Despite repeated attempts to resume the ownership of the school after it was closed in 1969, the claimants found that it had been sold to local farmers in 1977 without their knowledge.

16.1.9 Wai 221: North Island main trunk railway lands

To some extent, Wai 221 is the same as Wai 167, in that it claims that the Crown obtained excessive lands for the main trunk railway and that their taking was contrary to the Treaty. In particular, this claim is about the loss of land by the Tamaupoko hapu of the Whanganui and concerns the Waimarino block. The claim also raises the issue of the lands dealt with by the Aotea District Maori Land Board. These lands include the Whakaihuwaka block and parts of it that are now within the Tongariro National Park.

16.1.10 Wai 264: North Island main trunk railway lands – National Maori Congress Claim

Several iwi affected by the Crown's alleged wrongful purchase of lands for the main trunk railway have made Wai 264. The Whanganui River Maori Trust Board is one of the claimants.

16.1.11 Wai 277: Raetihi 3 block

Descendants of Rangituhia, Rangiteauria, and Uenukumanawawiri claim that the Raetihi 3 block (of 3200 acres) and the Mangaturuturu block were wrongly acquired by the Crown.

16.1.12 Wai 424: Kokomiko Crown land

Trustees of the Tarata Trust claim that promises were made in 1990 by Te Puni Kokiri to amalgamate Tarata and Kokomiko lands to form one block and to provide an economic base for the claimants. It is claimed, however, that the land has since been advertised by the Crown for disposal. The Crown acquired part of the block in 1920 in payment for surveying the block. The claimants ask that the land be returned to them.

16.1.13 Wai 428: Pipiriki township lands

The Whare Ranana Trust claims that an area of land in Pipiriki was designated as a cemetery for Pakeha, but only three people were buried there and it is now a Crown reserve. That land, as well as a small area of nearby land that was taken as a Crown reserve without reference to the owners, is claimed.

16.1.14 Wai 458: Ohutu block claim

Richard Marumaru claims that land in which he and his mother, Hinerua Te Peke, have an interest was wrongly incorporated into another larger block without their permission. They claim that this was due to errors on the part of the Crown.

16.1.15 Wai 505: Wanganui, Waitotara, and Kai Iwi lands

Ann Waitai, on behalf of Ngati Tamaheteroto, claims to have been prejudicially affected by what is known as the Kai Iwi sale in 1848 (which included the Wanganui and Waitotara blocks) and by the later confiscation of land in the area. She claims that the land acquired was excessive and that the Crown's disposal and use of that land was inconsistent with the principles of the Treaty of Waitangi.

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PART II

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Bargh, Brian J, *The Volcanic Plateau*, Wellington, Waitangi Tribunal Rangahaua Whanui Series, working paper: first release, December 1995. This report is one of the Rangahaua Whanui Series, a series of reports that are being written for the Tribunal to give a broad overview of land and other resource losses by Maori throughout New Zealand since the signing of the Treaty of Waitangi. These losses are set in context and an outline of the claims is also given.

Bargh, Brian J, and R J Young, 'Okahukura and Taurewa Blocks – Ngati Hikairo/Rakeipoho', report commissioned by the Ngati Hikairo/Rakeipoho claimants, June 1992. The report was prepared for the Ngati Hikairo/Rakeipoho claimants as evidence to the Crown Forestry Rental Trust of their rights to the Taurewa and Okahukura blocks. The report outlines the way in which these lands were purchased by the Crown.

Beca Carter Hollings and Ferner/Berl, 'Report on Gravel Extraction, 1903–1988', report commissioned by the Waitangi Tribunal, 1988 (Wai 167 ROD, doc A31). This report is based on the recommendations of Sir Harold Johnston's royal commission on the Whanganui River. Johnston recommended that the Crown pay Whanganui hapu royalties for the large amount of gravel that had been taken from the river over many years by the Crown and local bodies. From the available records, the commission calculated the amount of gravel taken and applied a royalty to it. Depending on how inflation is taken into account, the commission's report claimed that Whanganui Maori should have been paid between and \$8 million and \$21 million in present day value for the gravel.

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Ward, Alan, 'Whanganui ki Maniapoto: Preliminary Historical Report – Wai 48 and Related Claims', report commissioned by the Waitangi Tribunal, March 1992. This report was compiled in order to examine a number of similar claims in the central North Island relating to the Crown's acquisition of land for the main trunk railway. It discusses Maori resistance to land purchasing in the Whanganui and Rohe Potae areas, the attempt to make a carefully controlled opening in the 1880s, and the Crown's undermining of these efforts in order to secure the freehold of most of the district.

Young, R J, 'Wanganui River Claim and Related Issues', Manatu Maori, 1990 (Wai 167 ROD, doc A47). A chronological account of the Crown's actions relating to the Whanganui River. The Crown is portrayed as being intransigent over the issue of the ownership of the Whanganui River. Despite Maori protestations, successive governments have claimed that the riverbed belongs to the Crown and have forced developments on the river, often without the sanction of Whanganui Maori, who have maintained consistently that, under the Treaty of Waitangi, they own the river.

APPENDIX I

DIRECTIONS COMMISSIONING RESEARCH

WAITANGI TRIBUNAL

CONCERNING

the Treaty of Waitangi Act 1975

DIRECTION COMMISSIONING RESEARCH

Pursuant to clause 5A(1) of the Second Schedule of the Treaty of Waitangi Act 1975, Suzanne Cross of Wellington is commissioned to co-jointly prepare overview reports, in accordance with the attached schedule A [not reproduced], on claims before the Tribunal in the King Country/Rohe Potae and Wanganui areas (areas 8 and 9 on the attached Schedule B [not reproduced]).

This commission commences on 5 July 1993 and ends on 28 February 1994 at which time a draft of the work (in WordPerfect format) completed will be filed.

The report may be received as evidence and the commissionee may be cross-examined on it (for which separate payments will be made under Government witnesses' regulations).

Fees and other conditions of the commission are set out in the attached schedule C [not reproduced].

The commission will take effect when the commissionee provides a written statement that the commissionee agrees to all the terms of this commission.

The Registrar is to send copies of this direction to:

Crown Law Office
Suzanne Cross
Claimant groups in the affected area
National Maori Congress
NZ Maori Council

Dated at Wellington this 12th day of July 1993

Chief Judge E T J Durie
Chairperson
WAITANGI TRIBUNAL

WAITANGI TRIBUNAL

CONCERNING the Treaty of Waitangi Act 1975

AND CONCERNING Claims in the Whanganui District

DIRECTION COMMISSIONING RESEARCH

1. Pursuant to clause 5A(1) of the Second Schedule of the Treaty of Waitangi Act 1975, the Tribunal commissions Brian Bargh of Wellington to complete, as part of the Rangahaua Whanui project, an overview research report in accordance with the attached schedule A [not reproduced], on claims before the Tribunal in the Whanganui District (Region 9 as shown on the attached sketch map – Schedule B [not reproduced]).

2. This commission commences on receipt of written confirmation of the commissionee's acceptance of the terms and conditions of the commission.

3. The commission ends on 15 December 1994 at which time a draft of the work completed (in WordPerfect format) will be filed.

4. The report may be received as evidence and the commissionee may be cross-examined on it.

5. The commissionee is to meet weekly with the Tribunal Project Manager/Advisory Group or their nominee to discuss work progress and will attend and contribute to weekly research seminars.

6. The Registrar is to send copies of this direction to:

Brian Bargh
Solicitor General, Crown Law Office
Crown Forestry Rental Trust
Claimant groups in the affected area
National Maori Congress
NZ Maori Council
Director, Treaty of Waitangi Policy Unit

Dated at Wellington this 19th day of September 1994

Chief Judge E T J Durie
Chairperson
WAITANGI TRIBUNAL

APPENDIX II

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:

The Whanganui District

- (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

APPENDIX III

POPULATION

The first population reference located estimated that in 1840 the Maori population of the Whanganui basin alone was 5000.¹ The first recorded census of the Maori population in the district seems to be one taken by the Reverend Richard Taylor in 1843. He placed the Maori population along the Whanganui River at 3245.² According to Taylor, there were large settlements at Pukuhika (556 people) and Pipiriki (296) and sizeable ones at Patiarero (222), Operiki (205), Ikurangi (194), Tonuhairi (164), and Utapu (150). In keeping with earlier patterns of settlement, settlements near the river mouth were much smaller. Similarly, Cowan states that the population along the river was estimated in 1846 at 4000, although how this figure was arrived at is unknown.³

As an accompaniment to his first resident magistrate's report in November 1862, White provided a census of the places he had visited along the river.

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1. L J B Chapple and C Barton, *Early Missionary Work in Whanganui, 1840–1850*, Wanganui, 1930, p 47
 2. Native Population of Wanganui River 1843, Richard Taylor papers, MS papers 254, ATL
 3. James Cowan, *The New Zealand Wars: A History of the Maori Campaigns and the Pioneering Period*, Wellington, 1983, vol 1, p 136